

MT LEGISLATIVE HISTORY

Chapter 516 1973

Bill H 15 S \_\_\_\_\_

Original bill & hist.   C

H. Committee on \_\_\_\_\_

S. Committee on \_\_\_\_\_

Hearing Date(s) \_\_\_\_\_   C

Hearing Date(s) \_\_\_\_\_   C

4/9   ☒C

4/10   ☒C

4/18   ☒C

\_\_\_\_\_   C

3/8   ☒C

\_\_\_\_\_   C

Date Out 4/19   ☒C

3/8   C

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Did this bill originate in an interim committee?   Yes   No

Committee \_\_\_\_\_

Report \_\_\_\_\_

ROLL CALL VOTE

TAXATION

COMMITTEE

|           | Date: 1/9<br>No: 15 | Date: 1/12<br>No: 61 | Date: 1/12<br>No: 52 | Date: 1/12<br>No: 68 | Date: 1/17<br>No: 36 | Date: 1/17<br>No: 22 | Date: 1/19<br>No: 16 | Date: 1/19<br>No: 16 |
|-----------|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Watt      | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Healy     | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Burnett   | N                   | A                    | N                    | N                    | N                    | A                    | N                    |                      |
| Edland    | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Fagg      | A                   | A                    | N                    | A                    | N                    | A                    | A                    |                      |
| Halvorson | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Kolstad   | A                   | A                    | N                    | N                    | N                    | A                    | A                    |                      |
| Lundgren  | A                   | A                    | A                    | A                    | N                    | A                    | A                    |                      |
| Norman    | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Stephens  | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Swanberg  | A                   | A                    | N                    | A                    | N                    | A                    | A                    |                      |
| Tierney   | A                   | A                    | A                    | A                    | N                    | A                    | A                    |                      |
| Towe      | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
| Ulmer     | N                   | A                    | N                    | N                    | N                    | A                    | A                    |                      |
| Yardley   | A                   | A                    | A                    | A                    | A                    | A                    | A                    |                      |
|           | 13 - A<br>2 - N     | 15 - A               | 10 - A<br>5 - N      | 12 - A<br>3 - N      | 8 - A<br>7 - N       | 15 - A               | 14 - A<br>1 - N      |                      |
|           |                     |                      |                      |                      |                      |                      |                      |                      |
|           |                     |                      |                      |                      |                      |                      |                      |                      |

January 4, 1973

### TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 8:10 a.m., with fourteen (14) members present. (absent Norman)

The Chairman began the meeting by noting those bills received thus far as numbers 15, 16, 17, 36, 47, 52 and 58. Those bills discussed during the meeting were 15, 16 and 17 which are implementation bills for the constitution.

James H. Burnett stated he is writing a bill to reinstate the Board of Equalization into approximately its present function, and will introduce the bill in the near future.

Chairman Watt requested volunteers for subcommittees to study bill numbers 15, 16, and 17. On committee for bill 15 will be John E. Healy as chairman and also Harrison G. Fagg and Ora J. Halvorson. On committee for bill 16 will be Wallace B. Edland as chairman and also James H. Burnett and Thomas E. Towe. On committee for bill 17 will be Dan Yardley as chairman and also Robert E. Stephens and Walter J. Ulmer. The responsibility for each bill rests with the men comprising each committee.

The board downstairs on third floor will be posted listing all hearings.

Question was raised as to whether the committee will meet on Saturday. A decision will be made next meeting.

There being no further business the meeting adjourned at 8:35 a.m.

  
Robert D. Watt  
Chairman

January 9, 1973

### TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 12 noon, with all fifteen members present.

The first order of business was the reading of amendments to House Bill fifteen (15) by Chairman Watt. Ray Wayrynen, former speaker of the house, proceeded to explain the amendments. Chairman Watt then stated that since bills fifteen (15), sixteen (16), and seventeen (17) are sufficiently related to one another that discussion and testimony would commence on all of them at the same time. He asked that all those in favor of the bills be the first to speak.

J. Morley Cooper, representing the State Board of Equalization was the first to state his position. Those speaking for the bills were Jean Anderson who represented the League of Women Voters and Ray Wayrynen who had a prepared statement in behalf of himself which constitutes part of these minutes. A. G. Slattery, representing the Montana County Assessor's Association simply asked if questions would be permitted.

Secondly, in order, those people who testified in opposition to the bill: John C. Alley, representing the State Board of Equalization; Alvin Hageman, representing the county commissioners; Kenneth Rustad, representing the county government; Burt Hurwitz, representing the Montana Association of the County Commissioners; Dean Zinnicker, representing the Montana Association of County Commissioners.

Robert N. Holding, representing the Montana Taxpayer's Association, then suggested that since there are to be so many bills introduced under the new constitution that there should be a joint house and senate study for the purpose of implementation. He further stated that the session is now in a state of confusion.

Keith Colbo, the present Director of Revenue, did not have a statement as such, but remained available for any question-answer period.

Following the testimony, there ensued a rather lengthy question-answer period between the committee members and those people who had testified either in favor of or against the bills, with many of each side participating.

January 9, 1973

(CONT.)

Finally, Mr. Watt informed those present that the formal hearing was terminated. He further stated that under the new constitution, anyone was allowed to be present during a committee meeting; however, those people other than committee members themselves would no longer be allowed to take part in the discussion.

As the first order of business in the committee meeting, Rep. Thomas Towe noted that on page two-hundred fifty-eight (258) the word ageal should be changed to the word appear.. Instead of introducing his own amendment, however, it was decided that the change would be made in the amendment introduced by Rep. John Healy. John Healy moved to adopt amendment by Thomas Towe and invlude in the existing amendment. The motion was seconded by Thomas Towe, and the motion passed.

James Burnett then suggested there be a postponement of bills fifteen (15), sixteen (16), and seventeen (17) for the purpose of further research and also more time for feedback from particular counties involved with study of the bill. Dan Yardley stated he saw no purpose in delaying action on House Bill fifteen (15) as there is no substantive change involved with it. Mr. Burnett agreed with Mr. Yardley on the subject.

Gorham Swanberg then motioned that House Bill fifteen (15) DO PASS as amended. Ora J. Halvorson seconded the motion. The bill was passed, with Hames Burnett and Walter Ulmer voting against the bill.

Thomas Towe had copies of amendments proposed for bills sixteen (16) with him, but due to the lateness of the hour and the legislative session due to begin, he was asked to prepare copies of the amendments for all members of committee and have available for the Wednesday, January 10 meeting. James Burnett will also have amendments prepared for bill sixteen (16).

Thomas Towe moved to postpone for six (6) days until January 15 final consideration of bills sixteen (16) and seventeen (17). The motion was seconded by James Burnett and carried.

There being no further business the meeting adjourned at 1:25 p.m.

  
Robert D. Watt,  
Chairman

NAME Theresa F. Wood BILL No. 151617

ADDRESS 2200 DATE Jan

WHOM DO YOU REPRESENT? Rep. J. J. ...

SUPPORT? ✓ OPPOSE? --- AMEND? ---

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

*submit  
check*

NAME

LAY WILLYNEN

ADDRESS

HELENA, MT

BILL No. 15-16+17

DATE 1/16/73

WHOM DO YOU REPRESENT?

Myself

SUBJECT?



OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Jean Anderson BILL NO. 15,16,17  
ADDRESS 3220 Conty Club Circle, Billings, DATE 1/9/73

WHOM DO YOU REPRESENT? League of Women Voters

SUPPORT? X OPPOSE?        AMEND?       

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



NAME A. G. Slattery  
ADDRESS Box 90  
London, Iowa

BILL No. 13

DATE July 13

WHOM DO YOU REPRESENT? Went to business school

SUPPORT?      OPPOSE?      AMEND? X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME ROBERT N. HELDING

HB 15, 16

BILL No. 17

ADDRESS 2328 CLOVERDALE

DATE 1-9-73

MISSOULA, MONTANA

WHOM DO YOU REPRESENT? MONTANA TAXPAYERS ASSOC.

SUPPORT? ☐

OPPOSE? ☐

AMEND? ☒

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME: Keith Colbe

BILL No. 5

ADDRESS: 1000

DATE: 10/1/68

WHOM DO YOU REPRESENT?

SUPPORT? /

OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATEMENT BY RAY J. WAYRYNEN  
MEMBER OF THE STATE BOARD OF EQUALIZATION  
BEFORE THE HOUSE TAXATION COMMITTEE, JANUARY 9, 1973.

HOUSE BILLS 15, 16 and 17 ARE BILLS PRIMARILY FOR THE IMPLEMENTATION OF THE NEW STATE CONSTITUTION, AND MORE PARTICULARLY, ARTICLE VIII ON REVENUE AND FINANCE, AND SPECIFICALLY, SECTION 3 OF THAT ARTICLE ON PROPERTY TAX ADMINISTRATION AND SECTION 7 ON TAX APPEALS.

AS A MEMBER OF THE STATE BOARD OF EQUALIZATION, I AM NATURALLY INTERESTED IN THIS LEGISLATION -- BUT I SHOULD ADVISE THE COMMITTEE THAT THE FOLLOWING OPINIONS AND VIEWPOINTS ARE MY OWN AND DO NOT NECESSARILY REFLECT THE POSITION OF THE BOARD, OF WHICH I AM A MEMBER.

I HAVE EXAMINED THE LEGISLATION IN QUESTION AND I HAVE CONCLUDED THAT THE BILLS PRESENT A SENSIBLE, RATIONAL AND LOGICAL APPROACH TO SATISFYING TWO OF THE MANDATORY PROVISIONS OF THE NEW CONSTITUTION. HOWEVER, ON CLOSE EXAMINATION I FIND SOME AREAS FOR POSSIBLE AMENDMENT WHICH IN MY ESTIMATION, WOULD IMPROVE THE BILLS AND BETTER CARRY OUT THE OBJECTIVES OF THE LEGISLATION.

I HAVE DISCUSSED SOME POSSIBLE AMENDMENTS WITH YOUR SUB-COMMITTEE ON H.B. 16. I PRESUME THAT THE SUB-COMMITTEE WILL BRING THESE TO YOUR ATTENTION IN YOUR FURTHER CONSIDERATIONS OF THESE BILLS, BECAUSE THEY ARE NECESSARY IMPROVEMENTS. IF I CAN BE OF ANY FURTHER ASSISTANCE TO THE COMMITTEE IN CONSIDERING THESE PROPOSED AMENDMENTS, I AM AVAILABLE AT ANY TIME. I HAVE ALSO LEFT ONE SUGGESTED AMENDMENT WITH MR. HEALY, WHOSE SUB-COMMITTEE HAD H.B. 15.

THE REQUIREMENT FOR THE TAX APPEAL BOARD ORIGINATES FROM THE ARGUMENT THAT IT IS IMPROPER FOR A BOARD WHICH ADMINISTERS THE TAX LAWS, MAKES TAX ASSESSMENTS, RULES, REGULATIONS, AND ISSUES ORDERS,

TO SIT IN JUDGMENT OF THE SAME WHEN SITTING AS AN HEARING BOARD AND WHEN APPEALS ARE BROUGHT BEFORE IT BY A DISSATISFIED AND PROTESTING PUBLIC. THE ARGUMENT BEING, OF COURSE, THAT THERE IS A BUILT-IN CONFLICT OF INTEREST IN SUCH A SITUATION, AND THIS WAS THE COMPELLING INFLUENCE WHICH PROMPTED THE CONSTITUTIONAL CONVENTION TO ADOPT ARTICLE VIII, SECTION 7 WHICH REQUIRES AN INDEPENDENT APPEAL PROCEDURE FOR TAXPAYER GRIEVANCES, WITH A REVIEW ON THE LOCAL LEVEL.

HOUSE BILL 16 ACCOMPLISHES THIS AND SATISFIES THIS CONSTITUTIONAL MANDATE BY CONVERTING THE PRESENT STATE BOARD OF EQUALIZATION TO A STATE BOARD OF TAX APPEAL, COMPLETELY SEPARATED FROM THE DEPARTMENT OF REVENUE. THIS IS A SENSIBLE AND LOGICAL APPROACH BECAUSE THE MEMBERS OF THE BOARD OF EQUALIZATION ARE, BY VIRTUE OF THEIR PREVIOUS DUTIES, KNOWLEDGEABLE IN MATTERS THAT WILL LOGICALLY COME BEFORE A TAX APPEAL BOARD.

ANOTHER IMPORTANT REASON FOR THE PROPOSED CONVERSION IS FROM THE STANDPOINT OF COST. HERE WE ALREADY HAVE A QUALIFIED BOARD THAT IS FUNDED BY STATE APPROPRIATION. WHY HAVE THE ADDITIONAL EXPENSE OF FUNDING STILL ANOTHER BOARD?

IT MAY BE ARGUED THAT PERHAPS THERE IS INSUFFICIENT WORKLOAD FOR THE STATE TAX APPEAL BOARD TO BE A FULLTIME BOARD -- SO LET US CONSIDER THAT THERE PRESENTLY IS A SIZEABLE NUMBER OF HEARINGS AND APPEALS BY THE BOARD REGARDING PROPERTY TAX VALUATION, PROPERTY CLASSIFICATION, APPEALS FROM THE VARIOUS DIVISIONS OF THE DEPARTMENT OF REVENUE WHICH ADMINISTERS OVER 20 SEPARATE LICENSE TAXES, AS WELL AS VALUATION HEARINGS ON RAILROAD AND PUBLIC UTILITY ASSESSMENTS. AND, MANY PEOPLE ARE OF THE OPINION THAT WHEN THE STATE BECOMES MORE INTIMATELY INVOLVED IN VALUATION AND ASSESSMENT OF REAL PROPERTY, WE WILL SEE A GREAT MANY MORE TAXPAYER PROTESTS REACHING THE STATE LEVEL.

THERE IS PENDING, OR TO BE INTRODUCED, LEGISLATION WHICH WILL ABOLISH THE LIQUOR CONTROL BOARD. IF THIS LEGISLATION PASSES, IT WILL PROVIDE AMONG OTHER THINGS THAT, "THE STATE BOARD OF EQUALIZATION SHALL ACT IN A QUASI-JUDICIAL CAPACITY FOR THE HEARING OF DISPUTES CONCERNING THE ADMINISTRATION OF MONTANA'S LIQUOR AND BEER LAWS, INCLUDING PROTESTS OVER THE ISSUANCE, TRANSFER, SUSPENSION, OR REVOCATION OF BEER OR LIQUOR LICENSES." IN CHECKING WITH THE LIQUOR ADMINISTRATOR, I FIND THAT MATTERS THAT WOULD HAVE COME BEFORE THE APPEAL BOARD IN 1971-72, NUMBERED 177, AND IN THE YEAR PREVIOUS, 1970-71, NUMBERED 158. SO, THESE WOULD BECOME ADDITIONAL DUTIES FOR THE TAX APPEAL BOARD.

THERE IS ALSO, AT THE PRESENT TIME, UNDER CONSIDERATION, A PROPOSAL TO CREATE WITHIN THE DEPARTMENT OF REVENUE, A CENTRAL COLLECTION AGENCY TO SERVE ALL STATE AGENCIES IN THE COLLECTION OF ALL FEES DUE THE STATE OF MONTANA. MANY OF THESE ARE OF SUCH A NATURE THAT THEY ARE BOUND TO GENERATE DISPUTES WHICH WILL END UP BEFORE THE APPEAL BOARD.

THE STATE APPEAL BOARD, UNDER THIS LEGISLATION BEFORE US, IS TO PROMULGATE RULES AND REGULATIONS FOR THE ORGANIZATION AND OPERATION OF THE COUNTY APPEAL BOARDS.

IT STANDS TO REASON THAT IF YOU ARE TO HAVE A KNOWLEDGEABLE AND PROFESSIONAL APPEAL BOARD THAT WILL RENDER FAIR AND JUST DECISIONS IN THE MATTERS TO COME BEFORE THEM, MANY OF WHICH INVOLVE COMPLEX CONSIDERATIONS -- THAT BOARD WILL BE REQUIRED TO DO MUCH TIME CONSUMING RESEARCH AND STUDY.

I SEE THE STATE TAX APPEAL BOARD BEING DEVELOPED INTO A MOST IMPORTANT AND MEANINGFUL BOARD. ONE THAT IS IMPORTANT TO THE STATE OF MONTANA AND THE TAXPAYING PUBLIC ALIKE. WE HEAR MUCH TALK

THESE DAYS ABOUT THE NEED FOR GOVERNMENT TO BECOME MORE RESPONSIVE TO THE PEOPLE. IN THE TAX APPEAL BOARD, I SEE A VERY REAL RESPONSE BY STATE GOVERNMENT TO THE NEEDS OF THE PEOPLE.

SO WHAT IF WE WERE TO RETAIN THE PRESENT STATE BOARD OF EQUALIZATION IN ITS PRESENT ROLE AS HEAD OF THE DEPARTMENT OF REVENUE AND CREATE A NEW AND SEPARATE APPEAL BOARD. WHEN YOU TRANSFER ALL OF THE APPEAL AND HEARING DUTIES OF THE EQUALIZATION BOARD TO THE OTHER APPEAL BOARD, YOU WILL HAVE DILUTED THE POWERS AND DUTIES OF THE BOARD OF EQUALIZATION TO A POINT THAT IT BECOMES MEANINGLESS.

TRUE, WE WOULD BE HEAD OF THE DEPARTMENT OF REVENUE AND PROBABLY INVOLVED IN THE STATE PROPERTY ASSESSMENT PROGRAM --- NEITHER ONE OF WHICH NEEDS A THREE MEMBER BOARD TO FUNCTION EFFICIENT

AS LONG AS THERE IS A TAX APPEAL BOARD TO WHICH AN AGGRIEVED TAXPAYER HAS EASY ACCESS, THERE IS NO NEED FOR THREE MEMBER BOARD SUPERVISION AT ANY LEVEL OF THE DEPARTMENT OF REVENUE.

SINCE CLOSELY OBSERVING THE OPERATION OF THE DEPARTMENT OF REVENUE FOR THE PAST 14 MONTHS UNDER EXECUTIVE REORGANIZATION, I AM CONVINCED THAT GREATER EFFICIENCY IN GOVERNMENT, WHICH IS A PRIMARY OBJECTIVE OF EXECUTIVE REORGANIZATION, CAN BE ACHIEVED BY HAVING A SINGLE MEMBER ADMINISTRATOR HEAD THE DEPARTMENT -- NAMELY; THE DIRECTOR OF REVENUE. AFTER ALL, HE ONLY ADMINISTERS THE TAX LAWS IN THE MANNER PRESCRIBED BY THE LEGISLATURE -- AND SO, IT SHOULD BE -- AS IT IS IN MOST OTHER STATES.

AND FINALLY, AS TO THE PROVISION FOR THE STATE TAKING OVER THE APPRAISAL AND ASSESSMENT OF REAL PROPERTY, WITH THE COUNTY ASSESSORS AS THE STATES AGENTS, ALL I CAN SAY IS "IT'S ABOUT TIME." UNDER WHATEVER PLAN OR WHATEVER MEANS THAT IS FINALLY ADOPTED -- WE CANNOT EVER HAVE UNIFORMITY OF ASSESSMENT AND TRUE EQUALIZATION

UNTIL THE STATE HAS COMPLETE CONTROL OF THE TOTAL PROGRAM. THE CONSTITUTION CONVENTION ACTED WISELY WHEN THEY WROTE THIS MANDATORY PROVISION IN THE NEW DOCUMENT, AS WELL AS THE ONE FOR TAX APPEAL PROCEDURE.

IN CLOSING, I STATE WITHOUT ANY HESITATION THAT IN MY ESTIMATION, HOUSE BILLS 15, 16 AND 17 DO TWO VERY IMPORTANT THINGS -- THEY SATISFY TWO MANDATORY PROVISIONS OF THE NEW CONSTITUTION AND AT THE SAME TIME, BRING ABOUT MORE EFFICIENCY IN STATE GOVERNMENT.

I HEARTILY RECOMMEND THEM FOR YOUR FAVORABLE CONSIDERATION WITH SOME NECESSARY AMENDMENTS WHICH ARE WITH YOUR SUB-COMMITTEES.



January 18, 1973

TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 8:15 a.m., with thirteen members present (Absent Fagg and Kolstad).

House Bill fifteen (15) was referred back to committee for amendment. James Burnett explained what this would entail; however, Dan Yardley moved fifteen (15) be passed for consideration until House Bills sixteen (16) and seventeen (17) are decided upon also. Conrad Lundgren seconded the motion and it was passed unanimously.

Although sixteen (16) had apparently passed in committee yesterday, January 17, there were oversights as to the amendments and they were not all proposed to the committee members, so there ensued more discussion concerning the bill. Wallace Edland, chairman of the subcommittee appointed to study House Bill sixteen (16) briefly explained his proposed amendments, and also called on Dennis Burr to more fully explain the reasoning behind them. Burr stated that the two (2) mills now provided for will not be sufficient, and will leave an approximate \$900,000 deficiency balance; however, he continued, the three (3) mills would only be as a replacement tax. Wallace Edland then moved that his first two amendments be adopted, and the motion was seconded by James Burnett. Before the vote, however, Walter Ulmer questioned the amendments as possibly setting up a "slush" fund. This appeared to trouble other members, and a rather lengthy discussion concerning this matter followed. No definite decision was made. Again Gorham Swanberg moved that the amendments pass, which was seconded by Wallace Edland; however, immediately after this motion was made, Walter Ulmer moved that the amendments be held for further study -- and further stated that he would have other amendments to propose on the January 19 meeting. The motion was seconded by Dan Yardley, and the second motion passed; therefore, amendments to House Bill sixteen (16) will again be taken up at tomorrow's meeting.

James Burnett briefly explained his particular amendments to House Bill seventeen (17) and stated that Senator McGowan was present to take note of the proceedings (later in the meeting, Senator McGowan made brief comments relative to the matter). Dan Yardley stated that the subcommittee

(CONT.)

January 19, 1973

#### TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 8:10 a.m., with thirteen members present (Absent, Kolstad and Lundgren).

The business of the meeting was to conclude action on House Bills fifteen (15), sixteen (16), and seventeen (17). As per his motion of January 18, Walter Ulmer presented the committee with two (2) of his proposed amendments which would make the bill more desirable in his thinking. As an alternative, Thomas Towe also presented a proposed amendment; however, as Chairman Watt pointed out, the proposals were not in conflict and either or both could be adopted. The motion to adopt Mr. Ulmer's first amendment carried unanimously. Before the vote on Mr. Towe's amendment, however, some discussion ensued between the committee members, some of whom felt his proposal would leave the maximum mill levy too wide open. Finally the motion was voted upon and passed, with James Burnett casting the only no vote. Mr. Ulmer's second amendment was then voted upon and passed unanimously.

Ora Halvorson made a motion to amend page 23, line 20, after the word "fund." to strike all material through the word "act" on line 22. A discussion then took place among members of committee, and Mrs. Halvorson withdrew her motion.

Since Mr. Edland's proposed amendments for sixteen (16) were not acted upon yesterday, January 18, Mr. Swanberg moved that the first two (2) of them be adopted, which in both cases would change the wording on page 23, lines 12 and 15 from "classification and appraisal fund" to "property tax administration fund". Thomas Towe seconded the motion and it passed unanimously. Mr. Towe proposed one last amendment to the bill on page 23, line 20, by striking the words "such fund" and inserting in lieu thereof the words "the state treasurer". The amendment passed unanimously.

Finally, Gorham Swanberg moved that as amended, House Bill sixteen (16) Do Pass; however, James Burnett made a substitute motion that members have amended material incorporated with the bill to better be able to study it before final passage. In response, Mr. Swanberg suggested that the eighteenth day is fast approaching, and instead of further delaying action on these cumbersome bills, the committee proceed. Burnett's motion lost -- Burnett cast the only aye vote. The motion by Mr. Swanberg to pass House Bill sixteen (16) as amended did pass, with James Burnett being the only no vote.

(CONT.)

January 19, 1973

(CONT.)

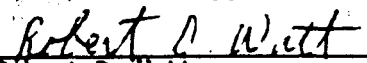
The committee moved to action on House Bill fifteen (15) which had been recalled for possible revision; however, James Burnett and Thomas Towe stated that the bill as had originally passed out of committee was adequate. A motion was made to again pass House Bill fifteen (15) as amended, which passed unanimously.

House Bill seventeen (17) was the next bill to be discussed. Dan Yardley, who had been appointed subcommittee chairman for study of the bill, first indicated the proposed amendments for consideration. There were only two (2) changes; however, he suggested that in the future some thought might be given to setting up some type of criteria for certifying assessors. Since there is already a proposed study of the implementation bills fifteen (15), sixteen (16), and seventeen (17), -the above suggestion will be taken into consideration in relation to the study. The amendments Mr. Yardley proposed were passed unanimously.

James Burnett had an amendment to propose to the committee members, which would have been to set up a board of three members instead of the one director. He felt that by doing so, there would be more of a check and balance system and it would not be as easy for anyone to get preferential treatment. In response, however, Thomas Towe stated one of the primary objectives of executive reorganization was to abolish the old inefficient board system, with which Gorham Swanberg concurred. Mr. Burnett then made brief closing remarks concerning the matter. The committee voted on Mr. Burnett's amendment, and it failed with the following members voting for it: Burnett, Fagg, and Ulmer. It was finally moved that House Bill seventeen (17) as amended Do Pass. Walter Ulmer opposed the motion, claiming every county official he has been in contact with has been opposed to the power that will be vested with one person. The bill passed, with the following members casting votes against it: Burnett, Fagg, and Ulmer.

Chairman Watt explained there would be a hearing on House Bills ninety-seven and one hundred nineteen today, January 19, at 12 noon.

There being no further business, the meeting adjourned at 9:10 a.m.

  
Robert D. Watt,  
Chairman

1973  
Senate

COMMITTEE ON TAXATION

| ROLL NO.<br>SENATE | ENTERED COM. | OUT OF COM. | DO<br>PASS | DO NOT<br>PASS | DO PASS<br>AS AMENDED | BE CON-<br>CURRED IN | BE CONCURRED IN<br>AS AMENDED | BE NOT<br>CONCURRED IN |
|--------------------|--------------|-------------|------------|----------------|-----------------------|----------------------|-------------------------------|------------------------|
| 438                | 1/30         | 2/13        |            | x              |                       |                      |                               | killed                 |
| 454                | 2/12         | 2/15        | x          |                |                       |                      |                               |                        |
| 455                | 2/12         | 2/15        | x          |                |                       |                      |                               |                        |
| 470                | 3/21         | 3/15        |            |                | x                     |                      |                               | SLG                    |
| 478                | 2/18         | 2/10        | x          |                |                       |                      |                               |                        |
| 480                | 2/22         | 3/1         |            |                |                       | x                    |                               |                        |
| 46                 | 2/7          | 3/8         |            |                |                       | x                    |                               |                        |
| 47                 | 2/7          | 3/8         |            |                |                       | x                    |                               | SLG                    |
| 36                 | 1/27         | 3/6         |            |                |                       |                      |                               | Hold                   |
| 52                 | 1/22         | 2/22        |            |                |                       |                      |                               | Hold                   |
| 58                 | 2/1          |             |            |                |                       |                      |                               | HELD                   |
| 61                 | 1/18         | 2/12        |            |                |                       |                      |                               | SLG                    |
| 68                 | 1/20         | 3/1         |            |                |                       | x                    |                               | SLG                    |
| 96                 | 2/10         | 2/27        |            |                |                       | x                    |                               | SLG                    |
| 108                | 2/3          | 3/1         |            |                |                       | x                    |                               |                        |
| 119                | 2/1          | 2/21        |            |                |                       | x                    |                               | killed                 |
| 146                | 2/8          | 3/8         |            |                |                       |                      | x                             |                        |
| 192                | 2/1          | 2/22        |            |                |                       |                      |                               | Hold                   |
| 193                | 2/26         | 3/6         |            |                |                       |                      |                               | Hold                   |
| 254                | 2/7          | 3/16        |            |                |                       | x                    |                               |                        |
| 314                | 2/3          | 3/6         |            |                |                       | x                    |                               | SLG                    |
| 321                | 2/3          | 2/27        |            |                |                       | x                    |                               | SLG                    |
| 322                | 2/7          | 3/1         |            |                |                       | x                    |                               | SLG                    |

The Senate Committee on Taxation met in room 415 of the State Capitol at 7:30 A.M. on Thursday, March 8. Roll call was taken with enough members present for a quorum and the meeting was called to order at 7:42 by Senator Nees, Chairman. Senator McGowan, chairman of the subcommittee on taxation to handle House Bills 15, 16 and 17 said the committee was ready to report and asked Senator Turnage to do so.

Senator Turnage read the recommendations from the subcommittee for House Bill 15 and moved the amendments. Seconded by Senator McGowan, voted and passed.

Senator Turnage moved House Bill 15 be concurred in as amended. Seconded by Senator McGowan, voted and passed.

Senator Turnage explained the proposed amendments for House Bill 16, and moved the amendments. Voted and passed.

Senator Turnage moved an amendment for clarification on House Bill 16, seconded by Senator Bennett, voted and passed, Senator McOmber voted no.

Senator Turnage voted House Bill 16 as amended be concurred in. Voted and passed.

Senator Turnage explained the proposed amendments for House Bill 17 and moved the amendments. Voted and passed with the second by Senator McGowan.

Senator Turnage moved House Bill 17 be concurred in as amended, seconded by Senator McGowan, voted and passed.

Representative Hager explained House Bill 58 and passed out exhibit 1, 2 and 3. Everett Snortland, Montana Farm Bureau, Bob Holding, St. Regis Paper Company, Gordon Herrin, Helena Valley Rancher and Dean Zennecker, Montana County Commissioners Association spoke in favor of the bill.

Opponents of the bill were Frank Moze, offering the following amendments, on Page, 3, line 19 after the word "October 1" to insert the word "upon"; on page 5, line 24 after the word "multiplying" to insert the words "The taxable value computed from", and said there was no grandfather clause so they would have to reassess.

Vern Miller suggested an amendment on page 1, line 18-22 to define assessment.

Representative Hager answered with rebuttal, and questions were asked by the committee and answered. Senator Boylan gave a brief explanation of the 5 and 10 acre plots in a greenbelt area.

Representative Greely explained House Bill 519 as an attempt to find out how many people were paying taxes on campers in the State of Montana.

Representative Hager said he had a particular interest in the bill in

SENATE COMMITTEE TAXATION

Date 5/8 41 Bill No. 15 Time 1 46

| NAME            | YES       | NO |
|-----------------|-----------|----|
| Luke Mc Keon    | <i>ik</i> |    |
| Gordon Mc Gowan | <i>e</i>  |    |
| Gordon Mc Omber | <i>e</i>  |    |
| Dave Manning    | <i>e</i>  |    |
| Leonard Vainio  | <i>e</i>  |    |
| George Bennett  | <i>e</i>  |    |
| Fred Broeder    | <i>e</i>  |    |
| Herb Klindt     | <i>e</i>  |    |
| William Mathers | <i>e</i>  |    |
| Jean Turnage    | <i>e</i>  |    |
| Stanley Nees    | <i>e</i>  |    |

*SK*  
Secretary Sylvia Kinsey

*Nees*  
Chairman Stanley Nees

Motion: *Dr. H. ...*

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1973  
House

TAXATION

Page 1

TAXATION COMMITTEE

43rd Legislative Assembly

| Bill No                                  | Subject Matter                                                                                                        | Date In | Hearing Date  | Comments                                                                     | Date Out                                                 | Committee Action                        | Final Action       |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|---------|---------------|------------------------------------------------------------------------------|----------------------------------------------------------|-----------------------------------------|--------------------|
| HB 47<br>Norman                          | An act to amend section 84-1302, R.C.M. 1947, raising the strip coal mines license tax.                               | 1/4     | 2/6           |                                                                              |                                                          | DO PASS                                 |                    |
| HB 36<br>Watt                            | To provide for replacement of property taxes on habitable prop. & some personal prop. w/tax on total personal income. | 1/4     | 1/11 and 1/15 |                                                                              | 1/18                                                     | As amended, DO PASS                     |                    |
| HB 52<br>Hodges,<br>Norman<br>Et Al      | To increase income to retired married couple to qualify for class 8 property tax classifica.                          | 1/4     | 1/5           |                                                                              | 1/12                                                     | As amended DO PASS                      |                    |
| HB 58<br>Lockman,<br>Hager               | Procedure of defining agricultural lands, est. penalty, & amend section 84-401, R.C.M. 1947.                          | 1/4     | 1/16          | As of 1/9, transferred to another committee (State Administration Committee) | See page 3, as transferred back to our committee on 1/12 |                                         |                    |
| HB 61<br>McKittick<br>Menahan,<br>Et Al  | An act to amend section 33-124, R.C.M. 1947, relating to the value of land selected & claimed for homesteads.         | 1/5     | 1/12          |                                                                              | 1/12                                                     | DO PASS                                 | Signed by Governor |
| HB 15<br>Shelden,<br>Lucas<br>By Request | Deleting all reference to St. Bd. of Epul. as tax adm. agency. for st. Department of Revenue.                         | 1/4     | 1/9           | 1/17, referred back to committee for further amending                        | 1/10<br>1/19                                             | As amended DO PASS<br>As amend, Do pass |                    |

SENATE COMMITTEE TAXATION

Date 5/8 Bill No. 15 Time 1:15

| NAME            | YES | NO |
|-----------------|-----|----|
| Luke Mc Keon    |     |    |
| Gordon Mc Gowan |     |    |
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| Dave Manning    |     |    |
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| Fred Broeder    |     |    |
| Herb Klindt     |     |    |
| William Mathers |     |    |
| Jean Turnage    |     |    |
| Stanley Nees    |     |    |

Secretary Sylvia Kinsey Chairman Stanley Nees

Motion: 1. To pass the bill as amended.

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filed by it in the county clerk's office. No municipal corporation may be formed unless the number of inhabitants is three hundred or upwards."

Section 2. This act is effective on its passage and approval.

Approved: April 4, 1973.

#### CHAPTER NO. 516

An Act to Amend Sections 84-308, 84-401, 84-404, 84-405, 84-428, 84-429.12, 84-606, 84-713, 84-715, 84-719 through 84-723, 84-725 through 84-730, 84-732 through 84-734, 84-801, 84-804, 84-901, 84-904, 84-905, 84-907, 84-1004 through 84-1006, 84-1008, 84-1103, 84-1105, 84-1106, 84-1108, 84-1202, 84-1204 through 84-1207, 84-1209, 84-1302, 84-1304 through 84-1306, 84-1308, 84-1403, 84-1405, 84-1406, 84-1408, 84-1412, 84-1501.2, 84-1502 through 84-1504, 84-1505.1, 84-1505.2, 84-1507, 84-1508, 84-1508.2, 84-1509, 84-1512, 84-1514 through 84-1518, 84-1601, 84-1603 through 84-1606, 84-1608, 84-1702, 84-1703, 84-1705, 84-1707, 84-1831 through 84-1832.1, 84-1834, 84-1835, 84-1837, 84-1838, 84-1841 through 84-1844, 84-1847, 84-1849 through 84-1855, 84-1857, 84-1858, 84-1861, 84-2003, 84-2005, 84-2006, 84-2008, 84-2011 through 84-2013, 84-2016, 84-2104 through 84-2106, 84-2108, 84-2203 through 84-2207, 84-2209, 84-2301 through 84-2309, 84-2401 through 84-2404, 84-2412, 84-2502, 84-2503, 84-2505, 84-2507, 84-2508, 84-2602, 84-2603, 84-2605, 84-2607, 84-2608, 84-3503, 84-3513, 84-3515, 84-3516, 84-3803, 84-3806, 84-4003, 84-4116, 84-4502, 84-4818, 84-4820, 84-4821, 84-4823, 84-4826, 84-4901, 84-4903.1, 84-4903.2, 84-4903.5 through 84-4903.13, 84-4907, 84-4907.1, 84-4913, 84-4914, 84-4919, 84-4920, 84-4924, 84-4928, 84-4928.1, 84-4929 through 84-4931, 84-4937 through 84-4940, 84-4942, 84-4943, 84-4946, 84-4948, 84-4950, 84-4951, 84-4955, 84-4956, 84-4958, 84-5210, 84-5402, 84-5406 through 84-5410, 84-5412, 84-5415, 84-5501, 84-5502, 84-5606.2 through 84-5606.4, 84-5606.6, 84-5606.8, 84-5606.13 through 84-5606.17, 84-5606.20 through 84-5606.22, 84-5606.25, 84-5606.27 through 84-5606.31, 84-5902 through 84-5907, 84-6203 through 84-6209, 84-6211, 84-6212, 84-6301, 84-6306, 84-6307, 84-6402 through 84-6408, 84-6410, 84-6606, 84-6607, 84-6801, 84-6806, 84-6807, 84-6902, 84-6907, R.C.M. 1947, to Delete all Reference to the State Board of Equalization as the Tax Administering

Agency for the State and to Replace References to the Board with the Words "State Department of Revenue".

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. Section 84-308, R.C.M. 1947, is amended to read as follows:

"84-308. **Basis for imposition of taxes on moneys and credits, moneyed capital and bank shares.** As a basis for the imposition of taxes upon the different classes of property herein specified, a percentage of the true and full value of each class shall be taken as follows:

Moneys and credits, seven per centum (7%) of true and full value.

Moneyed capital and shares of banks, both national and state, thirty per centum (30%) of true and full value on that portion of the true and full value not represented by surplus, as shown on the books of the bank; seven per centum (7%) on that portion of the true and full value represented by surplus as shown on the books of the bank; provided that on that portion of any such surplus which is over and above the amount represented by the stated capital of a bank, the excess shall be subject to thirty per centum (30%) of true and full value. The state department of revenue shall prepare, distribute and cause to be used such forms as it may require to obtain from the banks doing business in this state reports of such facts and figures as may be necessary to ascertain the taxable value of bank shares as a basis for the imposition of taxes."

Section 2. Section 84-404, R.C.M. 1947, is amended to read as follows:

"84-404. **State department of revenue to assign percentage basis, when.** The percentage basis of true and full value as provided for in section 84-302, shall be determined and assigned by the state department of revenue, when it makes its annual assessment of the property, which it is required to assess under the constitution or the laws of this state and shall transmit such determination and assignment to the various county clerks with the assessments so made, and its determination shall be final except as to the right of review in the proper court."

Section 3. Section 84-405, R.C.M. 1947, is amended to read as follows:

"84-405. **Assessor's blanks and rolls to be provided by state department of revenue.** It shall be made the duty of the state department of revenue to prescribe such forms of assessment blanks and assessor's rolls as will comply with the above provisions, grouping all the same percentage class as nearly as possible in one group on blanks and assessor's roll."

Section 4. Section 84-428, R.C.M. 1947, is amended to read as follows:

"84-428. **Railroads—how assessed.** The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this state must be assessed by the state *department of revenue* as hereinafter provided. Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business."

Section 5. Section 84-429.12, R.C.M. 1947, is amended to read as follows:

"84-429.12. **Classification and appraisal—general and uniform methods.** It is hereby made the duty of the state *department of revenue* to implement the provisions of this act by providing:

1. For a general and uniform method of classifying lands in the state of Montana for the purpose of securing an equitable and uniform basis of assessment of said lands for taxation purposes.

All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity. In such classification work, use shall be made of soil surveys and maps and all other pertinent available information. All lands must be classified by forty (40) acre tracts or fractional lots.

2. For a general and uniform method of appraising city and town lots.

3. For a general and uniform method of appraising rural and urban improvements.

4. For a general and uniform method of appraising timberlands."

Section 6. Section 84-606, R.C.M. 1947, is amended to read as follows:

"84-606. **Witnesses may be subpoenaed.** Upon the hearing of the application the *department* may subpoena such witnesses, hear and take such evidence in relation to the subject pending, as in its discretion it may deem proper."

Section 7. Section 84-713, R.C.M. 1947, is amended to read as follows:

"84-713. **Determination of state rate of taxation—notice of.** Between the first and third Mondays of August of each year, the

governor must determine the rate of state tax to be levied and collected upon the assessed valuation of the property in the state, which, after allowing twelve per cent (12%) for delinquencies in the collection of taxes, must be sufficient to raise the specific amount of the revenue required by the legislative assembly for state purposes. The state *department of revenue* must immediately thereafter transmit to the county clerk of each county a statement of such rate, and upon its receipt the county clerk must, in writing, notify the state *department of revenue* thereof."

Section 8. Section 84-715, R.C.M. 1947, is amended to read as follows:

"84-715. **Duties of public officers.** It shall be the duty of all public officers of the state and of any municipality to give to the *department* information in their possession relating to taxation when required by the *department*, and to co-operate with and aid the *department* in every manner in its efforts to secure a fair, equitable and just enforcement of the taxation and revenue laws of the state."

Section 9. Section 84-719, R.C.M. 1947, is amended to read as follows:

"84-719. **Assessment and apportionment by department of revenue—when made.** The state *department of revenue* must, on or before the third Monday in July of each year, assess the net proceeds of all mines and all property required by law to be assessed by the *department*, and must apportion to the counties and to the cities, towns, school districts and other taxing districts therein, in the manner provided by law, the total assessment of each of the properties so assessed by the *department*."

Section 10. Section 84-720, R.C.M. 1947, is amended to read as follows:

"84-720. **Transmission of assessment and apportionment to county clerk.** The state *department of revenue* must, on or before the fourth Monday in July of each year, transmit to the county clerk of each county to which any such apportionment is made, a statement with reference to each property so assessed and apportioned, containing a description thereof sufficient for identification, and stating the kind and character and the amount, quantity and extent of such property and the value thereof in each city, town, school district and other taxing district within the county, and the total value thereof in the county, and the *department* must, at the time of transmitting such statement to the county clerk, transmit a copy thereof to the owner of such property or to the person to whom the same is to be assessed."

Section 11. Section 84-721, R.C.M. 1947, is amended to read as follows:

"84-721. **Entering of state department of revenue's assessment in assessment book.** The county clerk must, on the receipt of each such statement from the state *department of revenue*, immediately enter on the assessment books of the county the assessment of such property as contained in such statement, and the same shall constitute the assessment of such property for taxation purposes in such county and in such cities, towns, school districts and other taxing districts of such county; provided that if any city or town in such county shall have provided by ordinance for the collection of its taxes by its own officers the county clerk must immediately after entering such assessment on the assessment books of the county, transmit a copy of so much of such statement as affects such city or town to the clerk thereof, and such city or town clerk shall on receipt thereof enter such assessment on the assessment books of such city or town. All such property is taxable upon such assessment at the same rate, by the same officers, and for the same purposes as other taxable property within such counties, cities, towns, school and other taxing districts, respectively, and such taxes must be collected in the same manner and by the same officers as other taxes are collected."

Section 12. Section 84-722, R.C.M. 1947, is amended to read as follows:

"84-722. **Change of assessment—application—hearing—reassessment.** At any time after the assessment of any property by the state *department of revenue*, and before the fourth Monday in August of the year in which such assessment is made, the owner of such property, or the person to whom the same is assessed, may make written application to the state *department of revenue* to have such assessment changed or corrected in any respect or particular, or to have the assessment set aside and a reassessment made by the *department*, which application must set forth specifically the grounds and reasons on which such application is based. On receipt of any such application the *department* must make an order fixing a day for hearing the same, giving the applicant at least ten days notice in writing of the day so fixed for such hearing, and the state *department of revenue* may, on its own initiative, when it believes that an error or mistake has been made in an assessment made by it, or that it is for the best interests of the state so to do, at any time before the fourth Monday in August of the year in which such assessment is made, make an order for a hearing thereon, giving the owner of or person to whom such property is assessed, at least ten days written notice of the day so fixed for such hearing, in which said notice and order must be stated briefly, the mistake or error believed to

exist by the *department* and the manner in which it is proposed to correct the same, or wherein the interests of the state require a change to be made in such assessment and the nature of the change proposed therein. On any such hearing, whether held on application of the owner or person to whom the property is assessed or on the initiative of the state *department of revenue*, such *department*, after hearing and considering all evidence introduced on such hearing, may make such changes or corrections in such assessment as it may deem necessary and proper, or may set aside such assessment and make a reassessment of such property; provided that all such hearings must be held and all such changes, corrections or reassessments made by the state *department of revenue* before the second Monday in October. When any change or correction is made in any assessment, or any reassessment is made as the result of such hearing the *department of revenue* must, within fifteen days thereafter, transmit to the county clerk of each county to which such property has been apportioned, or which is affected by such changes, corrections or reassessments, a statement (which) shall be in the same form and contain the same details as the statement required by section 84-720. On receipt of any such statement the county clerk must immediately make the necessary and proper changes in the assessment of such property on the assessment books of the county as shown by such statement, and if any change or correction in such assessment or such reassessment affects any city or town which collects its taxes by its own officer, the county clerk must, after entering the same on the assessment books of the county, transmit to such city or town clerk so much of such statement as affects such city or town and such city or town clerk must thereupon make such changes and corrections on the assessment books of such city or town."

Section 13. Section 84-723, R.C.M. 1947, is amended to read as follows:

"84-723. **Collection of nonresident inheritance taxes, gross earnings on freight lines, license taxes by state department of revenue.** The duty of collecting the nonresident inheritance taxes, all gross earning taxes on freight lines, and the following license taxes, to wit: The corporation license tax, taxes on express companies and sleeping car companies, coal mines, and dealers license taxes, metalliferous mines license tax, cement producers and dealers license taxes, the gasoline distributors and dealers license tax, the oil producer's license tax and all other license taxes determined by the state *department of revenue*, the responsibility for collection of which has heretofore been imposed upon the state treasurer are hereby transferred from the state treasurer to the state *department of revenue*; such collections to be turned over to the state treasurer on the 10th and 25th day of each and every month, and it is further provided that all duties heretofore imposed by law upon the state

treasurer, with reference to the collection and issuance of receipts for any of the above named license taxes, or other taxes above enumerated, are hereby imposed upon the state *department of revenue*."

Section 14. Section 84-725, R.C.M. 1947, is amended to read as follows:

"84-725. **Suspense account for receipts and refunds.** The state *department of revenue* shall establish a suspense account in the state treasury for the purpose of conveniently processing receipts and for paying refunds for overpayments of inheritance taxes collected by county treasurers and all other taxes collected by the *department*. All moneys received by the *department* shall be temporarily credited by the state treasurer to the *department's* suspense account. Each month the *department* shall send to the treasurer and to the controller a distribution sheet designating the amount to be deposited in each treasury fund and in each account."

Section 15. Section 84-726, R.C.M. 1947, is amended to read as follows:

"84-726. **Refund of over payments—time of filing claims for refund—procedure.** (1) When there has been an overpayment of the inheritance tax collected by county treasurers or any other tax collected by the state *department of revenue*, and there is no law providing for a refund, the *department* shall refund the amount of the overpayment to the taxpayer, plus any interest and penalty due the taxpayer, as provided in subsection (2) of this section.

(2) No refund or payment shall be allowed unless a claim is filed by the taxpayer before the expiration of five (5) years from the time the tax was paid. Within six (6) months after the claim is filed the state *department of revenue* shall examine the claim and either approve or disapprove it. If the claim is approved the credit or refund shall be made to the taxpayer within sixty (60) days after the claim is approved; if the claim is disallowed, the state *department of revenue* shall so notify the taxpayer and shall grant a hearing on the claim. If the *department* disapproves a claim after holding a hearing, the determination of the *department* may be reviewed as provided by section 84-4923.1."

Section 16. Section 84-727, R.C.M. 1947, is amended to read as follows:

"84-727. **Assessment of proportionally registered interstate motor vehicle fleets—full or partial year—tax payment required for registration.** The state *department of revenue* shall assess, for the purpose of personal property taxes, interstate motor vehicle fleets proportionally registered under the provisions of sections

53-701 to 53-724, and said assessment shall be apportioned on the ratio of total miles traveled to in-state miles traveled formula as prescribed by section 53-712. Interstate motor vehicle fleets are hereby declared assessable for taxation purposes upon application for proportional registration and shall be assessed to the persons who own or claim, or in whose possession or control the fleet is at the time of the application. Any fleet contained in an original application which has a situs for purpose of property taxation in Montana by the terms of this act or any other provision of the laws of Montana between January 1st and April 1st shall be taxed for a full year. Any fleet contained in an original application which acquires a situs for the purpose of property taxation in Montana under the provisions of this act or any other law of the state of Montana after April 1st shall have taxes apportioned as provided in section 84-6011. Any fleet, contained in a renewal application, shall be assessed and taxed for a full year. Vehicles contained in a fleet for which current taxes have been assessed and paid shall not be assessed under this section upon presentation to the *department of revenue* of proof of payment of tax for the current registration year. The payment of personal property taxes are a condition precedent to proportional registration or reregistration of an interstate motor vehicle fleet."

Section 17. Section 84-728, R.C.M. 1947, is amended to read as follows:

"84-728. **Valuation of interstate fleets—determination of aggregate tax due.** The state *department of revenue* shall assess any interstate motor vehicle fleet making application for proportional registration as follows:

(a) The purchase price depreciated by a schedule as prescribed by the *department* shall determine the depreciated value.

(b) The depreciated value multiplied by the per cent of miles traveled in Montana as prescribed by section 53-712 shall be the assessed value.

(c) The sum of the assessed value of all vehicles included in the fleet multiplied by twenty (20) per cent shall be the taxable value for the entire fleet.

(d) To determine the amount of tax due, the taxable value of the entire fleet shall be multiplied by the state-wide average county mill levy plus state levies as hereinafter provided."

Section 18. Section 84-729, R.C.M. 1947, is amended to read as follows:

"84-729. **Determination of average levy in state—application to interstate fleets—cost stated in application for registration.**

The state *department of revenue* shall determine the aggregate tax in the entire state for: (1) state, (2) county, (3) local purposes, levied on the general property of the state in the previous year excluding special levies on property for local improvements and special state levies on livestock for bounties, inspection and protection purposes.

From the total taxable valuation of the general property of the state including net proceeds and the aggregate tax as determined, the state *department of revenue* shall compute the average levy by dividing the aggregate tax by the total state taxable valuation. The rate so determined shall constitute the rate of taxation on the taxable value of all interstate trucks.

The original cost of each vehicle shall be included on the application for proportional registration under the provisions of sections 53-701 to 53-724. The *department* shall determine the original cost when the owner does not have this information on new or used vehicles, or in the case of rebuilt vehicles."

Section 19. Section 84-730, R.C.M. 1947, is amended to read as follows:

"84-730. **Situs in state of proportionally registered fleets — collection of property tax.** For the purposes of this section, all vehicles previously registered or which registration has been applied for, under the provisions of sections 53-701 to 53-724, are hereby declared to have a situs in the state for the purposes of taxation.

The *department* or its designated agent shall collect the personal property taxes prescribed herein."

Section 20. Section 84-732, R.C.M. 1947, is amended to read as follows:

"84-732. **Certified copies of corporation license and income tax returns furnished to taxpayer—fee.** Certified copies of returns filed for corporation license tax under section 84-1504, and certified copies of returns filed for income tax under section 84-4919, may be furnished by the *department of revenue* to the taxpayer or his duly authorized representative upon payment of fifty cents (50¢) for each page."

Section 21. Section 84-733, R.C.M. 1947, is amended to read as follows:

"84-733. **Corporation license tax clearance certificates furnished—fee.** Upon request of a corporation and upon the payment of one dollar (\$1) the *department of revenue* may furnish to it a certificate to the effect that all taxes have been paid, that a return

has been filed and that all information has been supplied as required by the provisions of the Corporation License Tax Act."

Section 22. Section 84-734, R.C.M. 1947, is amended to read as follow:

"84-734. **Fees to reimburse department for costs—deposit in general fund.** All moneys collected under this act shall be required to reimburse the state *department of revenue* for costs involved in the preparation of the copies and certificates. All such moneys collected shall go into the general fund of the state of Montana."

Section 23. Section 84-801, R.C.M. 1947, is amended to read as follows:

"84-801. **Assessment of railroads.** The president, secretary, or managing agent, or such other officer as the state *department of revenue* may designate, of any corporation, and each person or association of persons, owning or operating any railroad in more than one county in this state, must, on or before the first day of April of each year, furnish the *department* a statement, signed and sworn to by one of such officers, or by the person or one of the persons forming such association, showing in detail for the year ending on the thirty-first day of December, immediately preceding:

(1) The whole number of miles of railroad in the state; and, where the line is partly out of the state, the whole number of miles without the state, and the whole number within the state, owned or operated by such corporation, person, or association.

(2) The value of the roadway, roadbed, and rails of the whole railroad, and the value of the same within the state.

(3) The width of the right of way.

(4) The number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state.

(5) Number, kind, and value of rolling stock owned and operated in the state.

(6) Number, kind, and value of rolling stock used in the state, but now owned by the party making the returns.

(7) Number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns, or by and upon other railroads.

(8) The whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state.

(9) The number of each kind of rolling stock used in operating the entire railroad, including the part without the state,

which must include a detailed statement of the number and value thereof, of all engines, passenger, mail, express, baggage, freight, and other cars, or property owned or leased by such corporation, persons, or association.

(10) The number of sleeping and dining cars not owned by such corporation, person, or association, but used in operating the railroads of such corporation, person, or association in the state, or on the line of the road without the state, during each month of the year for which the return is made; also the number of miles each month said cars have been run or operated within and without the state.

(11) A description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road shall have once been given, no other annual description thereof is necessary, unless the road shall have been changed. Whenever the road, or any portion of the road, is advertised to be sold, or is sold for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad, or the right of way for the same. If such statement is not furnished as above provided, the assessment made by the state *department of revenue* upon the property of the corporation, person, or association failing to furnish the statement is conclusive and final.

(12) Also showing in detail for the year preceding the first of January:

- (a) The gross earnings of the entire road;
- (b) The gross earnings of the road within the state, and where the railroad is let to other operators, how much was derived by the lessor as rental;
- (c) The cost of operating the entire road, exclusive of sinking fund, expenses, of land department, and money paid to the United States;
- (d) Net income for such year, and amount of dividend declared;
- (e) Capital stock authorized;
- (f) Capital stock paid in;
- (g) Funded debt;
- (h) Number of shares authorized;
- (i) Number of shares of stock issued.

(13) Any other facts the state *department of revenue* may require."

Section 24. Section 84-804, R.C.M. 1947, is amended to read as follows:

"84-804. **Record of assessment and apportionment of railroads.** The state *department of revenue* must keep a record of all such assessments and apportionments."

Section 25. Section 84-901, R.C.M. 1947, is amended to read as follows:

"84-901. **Officers of certain telegraph, telephone, electric power and other lines to furnish statement to state department of revenue.** The president, secretary, or managing agent, or such other officer as the state *department of revenue* may designate, of any corporation, and each person or association of persons owning or operating a telegraph, telephone, electric power or transmission line, natural gas pipeline, oil pipeline, canal, ditch, flume, or other property, other than real estate not included in right of way, and which constitute a single and continuous property throughout more than one county, must, on or before the first Monday of March in each year, furnish the state *department of revenue* a statement, signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending on the thirty-first day of December, immediately preceding, as follows:

1. The whole number of miles of said property in the state, and where the property is partly out of the state, the whole number of miles without the state and the whole number of miles within the state owned or operated by such corporation, person, or association.
2. The total value of the entire property and plant both within and without the state, and the total value of that portion of the same within the state.
3. A complete description of the property within the state, giving the points of entrance into and the points of exit from the state, and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state.
4. Such other information regarding such property as may be required by the state *department of revenue*."

Section 26. Section 84-904, R.C.M. 1947, is amended to read as follows:

"84-904. **Hearing for the determination of facts pertaining to assessment.** If any corporation, person or association shall

fail, neglect, or refuse to furnish the state *department of revenue* with a full, true, and correct statement as required, and within the time, by section 84-901, or if the *department* shall have reason to believe that any such statement furnished the *department* is incorrect or erroneous in any particular, the *department* shall order a hearing for the purpose of ascertaining and determining such facts as will enable the *department* to assess the property of such corporation, person or association in accordance with the provisions of section 84-905. At least ten days' written notice of such hearing shall be given to such corporation, person, or association, and on such hearing the *department* shall ascertain and determine each and all of the matters and facts which should have been stated in such statement."

Section 27. Section 84-905, R.C.M. 1947, is amended to read as follows:

"84-905. **Assessment of property—apportionment to counties.** The *department* must assess all the properties described in section 84-901, but franchises granted by the United States must not be assessed, the value of such properties for assessment purposes to be determined upon such factors as the *department* shall deem proper.

On or before the second Monday in July, the *department* shall apportion such assessment to the counties in which the properties are situated."

Section 28. Section 84-907, R.C.M. 1947, is amended to read as follows:

"84-907. **Record of assessment and apportionment of properties.** The state *department of revenue* must keep a record of all such assessments and apportionments."

Section 29. Section 84-1004, R.C.M. 1947, is amended to read as follows:

"84-1004. **Statement to department of revenue—contents—time for filing.** Each and every person engaged in such business in the state of Montana at the time when this act becomes effective must, not later than the thirtieth day of April, 1929, and every person who shall engage in such business at any time after the date when this act becomes effective, must immediately, upon engaging in such business, file with the state *department of revenue* a certificate and statement, on forms prescribed by the state *department of revenue*, which shall contain the name under which such person is engaged in and carrying on such business in this state, giving the place or places of business and the location of the plant or plants for the production of carbon black owned, leased, controlled, or operated by such person; the name and address of the managing

agent in this state if an association, corporation, joint stock company or syndicate, or if a firm or copartnership, the names and addresses of the persons composing the same; if an association, joint-stock company, corporation or syndicate, the laws of the state under which organized, its principal place of business, and the names and addresses of its principal officers; and such other information as the *department* may deem necessary."

Section 30. Section 84-1005, R.C.M. 1947, is amended to read as follows:

"84-1005. **Records to be kept as required by department.** Every such person shall keep a record in such form as the state *department of revenue* may require of all carbon black produced or manufactured by such person in this state and such records shall at all times during the business hours of the day, be subject to inspection by the state *department of revenue*, its members, agents or employees."

Section 31. Section 84-1006, R.C.M. 1947, is amended to read as follows:

"84-1006. **Statement of production—time for making—collection of tax.** (1) Each and every person must, within thirty (30) days after the semiannual period ending June 30, 1929, and within thirty (30) days after the end of each following semiannual period, make out, in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the quantity of carbon black produced or manufactured by such person in the state of Montana during each month of such semiannual period and during the whole of said semiannual period, together with the total amount due the state as license tax for such semiannual period; and must, within such thirty (30) days, and at the same time such statement is delivered to the state treasurer, pay to the state treasurer the amount of the license tax shown by such statement to be due to the state of Montana for the semiannual period for which such statement is made; such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the same.

(2) Any such person engaged in or carrying on such business at more than one place in this state, or owning, leasing, controlling, or operating more than one carbon black plant in this state, may include all thereof in one statement. The state treasurer shall receive and file all such statements and collect and receive from such person making and filing a statement with him the amount of tax payable by such person, if any, as the same shall appear from the



face of the statement. The state treasurer shall endorse on each statement as soon as the same is received by him, the date when so received, the name and post-office address of the person from whom received; and the amount of tax, if any, paid by such person; and he must number such statement consecutively, beginning with the number one (1) for each year followed by the year. The state treasurer shall keep a book in such form as shall be approved by the state *department of revenue*, in which he shall enter each statement filed with him in the order in which received and filed, the number thereof, date of filing, name of person making the return, and the amount of tax, if any, paid by such person, which book shall be designated "State Treasurer's Record of Carbon Black Production License Tax." The state treasurer shall within ten days after the end of each month deliver over to the state *department of revenue* all statements filed with him and not already delivered to the *department*, and such statements shall then be filed in the office of, and become a part of the records of the state *department of revenue*. It shall be the duty of the state *department of revenue* to examine each of such statements and compute the taxes thereon, and the amount so computed by the *department* shall be the taxes imposed, assessed against and payable by the person making the statement for the semiannual period for which the statement is filed. If the tax found to be due shall be greater than the amount paid, the excess shall be paid by the taxpayer to the state *department of revenue* within ten days after written notice of the amount of the deficiency shall be mailed by the state *department of revenue* to such taxpayer. Provided, that if the tax imposed shall be less than the amount paid, the difference must be refunded to the person making such payment."

Section 32. Section 84-1008, R.C.M. 1947, is amended to read as follows:

"84-1008. *Department to compute tax if no statement filed — penalty and interest—collection of tax.* If any such person shall fail, neglect, or refuse to file any statement required by the provisions of this act within the time therein required, the state *department of revenue* shall immediately after such time has expired, proceed to inform itself, as best it may, regarding the quantity of carbon black produced or manufactured by such person in this state during such semiannual period and during each month thereof, and shall determine and fix the amount of the license tax due the state from such person for such semiannual period, and shall make out a statement, in duplicate, showing the same and shall add to the amount of such license tax a penalty of twenty-five per centum (25%) thereof and deliver one of such statements to the state treasurer, who shall proceed to collect the amount of such license tax, with the penalty added thereto, and interest on the whole thereof at the rate

of twelve per centum (12%) per annum from the date of the making of such statement by the state *department of revenue*, until paid.

Upon the request of the state treasurer, it shall be the duty of the attorney general to commence and prosecute to final determination, in any court of competent jurisdiction, an action at law for the collection of the same."

Section 33. Section 84-1103, R.C.M. 1947, is amended to read as follows:

"84-1103. *Statement to be filed with state department of revenue.* Each and every person engaged in or carrying on such occupation or business in the state of Montana at the date when this act becomes effective must, not later than the thirtieth day of April, 1921, and every person who shall engage in or carry on such occupation or business after the date when this act becomes effective must immediately after engaging in such occupation or business, make out and file with the state *department of revenue* a certificate and statement, on forms prescribed by the state *department of revenue*, which shall contain the name under which such person is engaging in and carrying on such occupation and business in this state, giving the location of each place of business of such person, the name and address of the managing agent in this state, if any association, joint-stock company, syndicate or corporation, or if a firm or copartnership the names and addresses of the persons composing the same; if an association, joint-stock company, syndicate or corporation, under the laws of what state organized, its principal place of business, and the names and addresses of its principal officers, and such other information as the state *department of revenue* may require."

Section 34. Section 84-1105, R.C.M. 1947, is amended to read as follows:

"84-1105. *Record of cement received.* Each and every person engaging in or carrying on such occupation in this state shall keep a record showing all cement, cement plaster, gypsum plaster and other byproducts of cement purchased or received by or delivered to such person for sale by such persons at retail in this state for the manufacturing or production of which cement, cement plaster, gypsum plaster or other byproducts of cement, no person has paid, or assumed liability for the payment of any license tax to the state of Montana under any law of this state, which record shall show the date of each purchase or delivery, the number of barrels or tons contained therein, and the name of the person from whom the same was purchased or received, which records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its members, agents or employees."



Section 35. Section 84-1106, R.C.M. 1947, is amended to read as follows:

"84-1106. **Quarterly statement of produce sold on which no tax paid—payment of tax.** Each and every person must, within thirty days after the quarter ending March 31, 1921, and within thirty days after the end of the following quarter, make out in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the total number of barrels or tons of such commodities sold by such persons during such quarter for the manufacturing or production of which no person has paid, or assumed liability for the payment of, any license tax to the state of Montana under any laws of this state, together with the total amount due to the state of Montana as license taxes from such person for such quarter; and must within thirty days, and at the same time such statement is delivered to the state treasurer, pay to the state treasurer the amount of the license tax shown by such statement to be due to the state of Montana for the quarter for which said statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer or managing agent in this state of the association, joint-stock company, syndicate or corporation making the same. The state treasurer shall file one copy of such statement in his office and deliver the other copy thereof to the state *department of revenue*."

Section 36. Section 84-1108, R.C.M. 1947, is amended to read as follows:

"84-1108. **Procedure to ascertain tax on failure of statement—penalty.** If any person shall fail, neglect or refuse to make or file the statement required by section 84-1106 within the time required, the state *department of revenue* shall immediately after such time has expired, proceed to inform itself, as best it may, regarding the matters required to be set forth in such statement, and shall fix and determine the amount of the license taxes due from such person for such quarter, and shall make out a statement in duplicate showing such matters, and the amount of such license taxes and shall add to the amount of such license taxes twenty-five per cent thereof as a penalty, and deliver one of such statements to the state treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto, and interest on the whole thereof at the rate of twelve per cent per annum, from the date of the making of such statement by the state *department of revenue* until paid. Upon request of the state treasurer it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same."

Section 37. Section 84-1202, R.C.M. 1947, is amended to read as follows:

"84-1202. **License tax on producers and importers of gypsum and cement.** Every person engaged in or carrying on the business in the state of Montana of producing or manufacturing cement, gypsum, gypsum plaster, stucco, wallboard, land plaster or other products of cement or gypsum, and any person who imports into this state any such products for sale or use, must, for the year 1945 and each year thereafter, when engaged in or carrying on such business in this state, pay to the state *department of revenue* for the use of the state of Montana, a license tax for engaging in and carrying on such business in the state of Montana in an amount equal to the following sums:

1. For each and every barrel of cement containing 376 pounds produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove enumerated, or imported by such person into this state for sale or use, four (4) cents.

2. For each and every ton of 2000 pounds of gypsum produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove named, or imported by such person into this state for such sale or use, five (5) cents.

3. The words "products of cement or gypsum" as used in this section shall, in addition to the articles herein specifically enumerated, include all manufactured products into which gypsum enters as a component part to the extent of not less than fifty per cent (50%) by weight. No double taxation of either cement, gypsum or the products thereof is imposed by this act."

Section 38. Section 84-1204, R.C.M. 1947, is amended to read as follows:

"84-1204. **Quarterly payment of tax.** Such annual license tax, as imposed by section 84-1202, shall be paid in quarterly installments for the quarters ending, respectively, March 31st, June 30th, September 30th and December 31st, of each year, beginning with the quarter ending March 31, 1945, and the amount of such license tax due for each such quarter shall be paid to the state *department of revenue* within thirty days after the end of each such quarter."

Section 39. Section 84-1205, R.C.M. 1947, is amended to read as follows:

"84-1205. **Statements to be filed with department of revenue.** Each and every person engaged in or carrying on the business speci-

fied in section 84-1202 at the date when this act becomes effective, must, not later than the thirtieth day of April, 1945 and every person who shall, after the date this act becomes effective, engage in such business, must immediately upon engaging therein, file with the state *department of revenue* a certificate and statement, on forms prescribed by the state *department of revenue* which shall contain the name under which such person is engaging in and carrying on such business within this state, giving the name of the place or places of business or location of plants or factories within this state; the name and address of the managing agent in this state; if a corporation, joint-stock company or association, or if a firm or copartnership, the names and addresses of the persons composing the same; if an association, joint-stock company or corporation, under the laws of what state organized, its principal place of business and the name and address of its principal officers; and such other information as the state *department of revenue* may deem necessary."

Section 40. Section 84-1206, R.C.M. 1947, is amended to read as follows:

"84-1206. **Manufacturers to keep records.** Every such person shall keep a record in such form as the state *department of revenue* may require of all cement, gypsum, gypsum plaster, stucco, wallboard, land plaster or other products of cement or gypsum manufactured or produced by such person in this state. Such records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its members, agents or employees."

Section 41. Section 84-1207, R.C.M. 1947, is amended to read as follows:

"84-1207. **Quarterly statement and payment of tax.** Each and every person must, within thirty days after the quarter ending March 31, 1945, and within thirty days after the end of each following quarter, make out, on forms prescribed by the state *department of revenue*, and deliver to the state *department of revenue*, a statement showing the total number of barrels or tons of cement or gypsum produced by such person or used by him in the manufacture of the respective articles or products enumerated in section 84-1202 or imported by such person into the state of Montana for sale or use, during each month of such quarter and during the whole quarter, and such other information as the *department* may require, together with the total amount due to the state as license taxes for such quarter; and must, within such thirty days, and at the same time such statement is delivered to the state *department of revenue*, pay to the state *department of revenue* the amount of the license taxes shown by such statement to be due to the state of Montana for

the quarter for which such statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, or joint-stock company making the same. Any such person engaged in carrying on such business at more than one place or operating more than one factory or plant in this state, may include all thereof in one statement."

Section 42. Section 84-1209, R.C.M. 1947, is amended to read as follows:

"84-1209. **Procedure to ascertain tax on failure of statement—penalty.** If any such person shall fail, neglect or refuse to file any statement required by section 84-1207 within the time required, or shall fail to pay the tax required by this act on or before the date such payment is due, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself as best it may, regarding the amounts of the respective articles or products enumerated in section 84-1202 manufactured or produced by such person within this state or imported by such person into the state, during such quarter, and during each month thereof, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter, and shall make out a statement, showing the same, and shall add to the amount of such license taxes, a penalty of twenty-five per cent thereof and deliver such statement to the attorney general, who shall proceed to collect the amount of the license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent per annum from the date of the making of such statement by the state *department of revenue* until paid. Upon request of the state *department of revenue*, it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to recover the same."

Section 43. Section 84-1302, R.C.M. 1947, is amended to read as follows:

"84-1302. **Strip coal mines license tax—amount—exemptions—testing of samples.** (1) Every person engaged in or carrying on the business of strip coal mining, or engaged in the business of working or operating any strip coal mine or strip coal mining property, in the state of Montana, from which marketable or merchantable coal of any kind is extracted or produced by means of strip mining, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1921, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state treasurer, for

the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business, work and operations, in the amounts listed in subsection (2) and subject to the exemption provided in subsection (3) on marketable or merchantable coal extracted or produced by means of strip mining by such person in the state of Montana and shipped by such person during such year, or used by such person for any purpose except in connection with the operating of the strip coal mine or mining property from which the same was extracted or produced, by means of strip mining or delivered by such person to any other person for shipment, sale or use by such other person; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed, by any person to mine coal, or to work in or about, or in connection with any strip coal mine to pay such license taxes, nor shall any work required to be done in prospecting for, or in developing, or in opening up any strip coal mine or strip coal mining property, be deemed to be the carrying on of a strip coal mining business, or the engaging in the business of working or operating of a strip coal mine; provided, further, that if during any such work of developing or opening up any strip coal mine or strip coal mining property, any marketable or merchantable coal shall be extracted or produced by means of strip mining and sold, then the same shall be deemed the carrying on of a strip coal mining business and the engaging in the business of working and operating a strip coal mine.

(2) The license tax to be paid under subsection (1) of this act shall be computed as follows:

For each ton of coal having a British thermal unit (hereafter, BTU) rating per pound of six thousand (6,000) or less, four cents (\$.04) per ton.

For each ton of coal having a BTU rating of six thousand one (6,001) to seven thousand five hundred (7,500), six cents (\$.06) per ton.

For each ton of coal having a BTU rating of seven thousand five hundred one (7,501) to nine thousand (9,000), eight cents (\$.08) per ton.

For each ton of coal having a BTU rating of nine thousand one (9,001) and up, ten cents (\$.10) per ton.

(3) The person paying such license tax shall be entitled to exempt annually from said license tax a total of five thousand (5,000) tons of coal, and such exemption may be applied all to one British thermal unit rating, or may be spread among the several ratings, but the total exemption may not exceed, in any case, five thousand (5,000) tons in any one year.

(4) The Montana state bureau of mines and geology (hereafter bureau) is designated as the testing agency for purposes of this act and is granted the right to promulgate rules and regulations to provide testing data required by this act. The rules and regulations promulgated under this act shall be structured to mutually protect the interest of the persons subject to the provisions of this act and the state of Montana.

(5) Every person subject to the provisions of this act shall on or before the first day of August of each calendar year submit to the bureau a sample of mine run "as is" coal from their coal production area. Additional sampling shall be required of the persons subject to this act at the request of the bureau.

(6) The bureau shall provide a form showing the results of the testing provided for under this act to the persons subject to this tax and the *department of revenue* prior to the first of September of each calendar year."

Section 44. Section 84-1304, R.C.M. 1947, is amended to read as follows:

"84-1304. **Strip coal mine operators to file statements.** Each and every person engaged in or carrying on the business of strip coal mining, or engaged in the business of working or operating any strip coal mine or strip coal mining property in the state of Montana, from which coal of any kind is extracted or produced by means of strip mining at the date when this act becomes effective, must, not later than the thirtieth day of April, 1921, and every person who shall, after the date this act becomes effective, engage in the business of strip coal mining or engage in working or operating any strip coal mine or strip coal mining property in the state of Montana, from which coal of any kind is extracted or produced by means of strip mining must, immediately upon engaging in such business, work or operations, file with the state *department of revenue*, a certificate and statement, on forms prescribed by such state *department of revenue*, which shall contain the name under which such person is engaging in and carrying on such business, work and operations, within this state, giving the place or places of business or location of the strip coal mine or strip coal mining property; the name and address of the managing agent in this state, if an association, joint-stock company, or corporation, or if a firm or partnership, the names and addresses of the persons composing the same; if an association or corporation, under the laws of what state organized, its principal place of business and the names and addresses of its principal officers; and such other information as the *department* may deem necessary."

Section 45. Section 84-1305, R.C.M. 1947, is amended to read as follows:

"84-1305. **Records to be kept by mine operators.** Every such person shall keep a record, in such form as the state *department of revenue* may require, of all coal mined, extracted or produced, and of all coal sold or otherwise disposed of by such person, and such records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its members, agents and employees."

Section 46. Section 84-1306, R.C.M. 1947, is amended to read as follows:

"84-1306. **Quarterly statements of mine operators—payment of license tax.** Each and every such person must, within thirty days after the quarter ending March 31, 1921, and within thirty days after the end of each following quarter, make out, in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the total number of tons, of two thousand pounds each, of marketable or merchantable coal mined, extracted, or produced by such person during such quarter, from all coal mines or coal mining property worked or operated by such person, and shipped by such person, or used by such person for any purpose except in connection with the operating of the mine or mining property from which the same was mined, extracted or produced, or delivered by such person to any other person for shipment, sale or use by such other person, together with the total amount due to the state as license tax for such quarter; and must within such thirty days, and at the time of delivering such duplicate statement to the state treasurer, pay to the state treasurer the amount of the license tax shown by such statement to be due to the state of Montana, for the quarter for which such statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent in this state, of the association, joint-stock company, or corporation making the same. Any person engaged in working or operating more than one coal mine may include all coal mines worked or operated by him in one statement. The state treasurer shall file one copy of such statement in his office and deliver the other copy thereof to the state *department of revenue*."

Section 47. Section 84-1308, R.C.M. 1947, is amended to read as follows:

"84-1308. **Procedure to determine tax—penalty—tax lien.** If any person shall fail, neglect or refuse to file any statement required by section 84-1306, or shall fail to make payment of such license tax within the time therein required, the state *department of revenue*, shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the number of tons of

marketable or merchantable coal mined, extracted or produced by such person, during such quarter and shipped or used by such person, or delivered by such person to any other person for shipment, sale or use by such other person, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter, and shall make out a statement in triplicate, showing the same, and shall add to the amount of such license taxes, ten per centum (10%) thereof as a penalty, and one of such statements shall be filed in the office of the county clerk and recorder of the county in which the coal was produced and one of such statements delivered to the state treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto and interest on the whole thereof, at the rate of eight per centum (8%) per annum from the date of making of such statement by the state *department of revenue* until paid. Upon request of the state treasurer, it shall be the duty of the attorney general or any county attorney to commence, and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the same.

The license tax assessed against any person under this act, together with penalties and interest thereon, shall be a lien upon any and all property owned by such person within this state and upon the mine from which the coal was produced, which lien shall attach on the date when the license tax is certified to the state treasurer by the state *department of revenue* and such lien may be enforced in the name of the state of Montana, in the same manner as other liens are enforced at law."

Section 48. Section 84-1403, R.C.M. 1947, is amended to read as follows:

"84-1403. **Retailers to file statements—Contents.** Each and every person engaged in or carrying on such occupation or business in the state of Montana at the date when this act becomes effective must, not later than the 30th day of April, 1921, and every person who shall engage in or carry on such occupation or business after the date when this act becomes effective must immediately after engaging in such occupation or business, make out and file with the state *department of revenue* a certificate and statement, on forms prescribed by the state *department of revenue*, which shall contain the name under which such person is engaging in and carrying on such occupation and business in this state; giving the location of each place of business of such person, the name and address of the managing agent in this state, if an association, joint-stock company, syndicate, or corporation; or, if a firm or copartnership the names and addresses of the persons composing the same; if an association, joint-stock company, syndicate, or corporation, under the laws of what state organized, its principal place of business, and

the names and addresses of its principal officers, and such other information as the state *department of revenue* may require."

Section 49. Section 84-1405, R.C.M. 1947, is amended to read as follows:

"84-1405. **Record of coal sold for retail.** Each and every person engaging in or carrying on such occupation or business in this state shall keep a record showing all coal purchased or received by or delivered to such person for sale by such person at retail in this state for the mining of which coal no "mine operator" has paid, or assumed liability for the payment of, any license fee to the state of Montana under any law of this state, which record shall show the date of each purchase or delivery, the number of tons contained therein, and the name of the person from whom the same was purchased or received, which records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its members, agents or employees."

Section 50. Section 84-1406, R.C.M. 1947, is amended to read as follows:

"84-1406. **Statement of coal sold—form of filing.** Each and every person must, within thirty days after the quarter ending March 31, 1921, and within thirty days after the end of each following quarter, make out in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the total number of tons of coal sold by such person during such quarter for the mining of which no "mine operator" has paid, or assumed liability for the payment of, any license fee to the state of Montana under any law of this state, together with the total amount due to the state of Montana as license fees from such person for such quarter; and must within such thirty days, and at the same time such statement is delivered to the state treasurer, pay to the state treasurer the amount of the license fees shown by such statement to be due to the state of Montana for the quarter for which said statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer or managing agent in this state of the association, joint-stock company, syndicate, or corporation making the same. The state treasurer shall file one copy of such statement in his office and deliver the other copy thereof to the state *department of revenue*."

Section 51. Section 84-1408, R.C.M. 1947, is amended to read as follows:

"84-1408. **Procedure to determine tax on failure to file statement—penalty.** If any person shall fail, neglect, or refuse to make

or file the statement required by section 84-1406, or shall fail to make payment of such license tax within the time therein required, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the matters required to be set forth in such statement and shall fix and determine the amount of the license fees due from such person for such quarter, and shall make out a statement in duplicate showing such matters, and the amount of such license fees, and shall add to the amount of such license fees twenty-five per centum (25%) thereof as a penalty, and deliver one (1) of such statements to the state treasurer, who shall proceed to collect the amount of such license fees, with the penalty added thereto, and interest on the whole thereof at the rate of eight per centum (8%) per annum from the date of the making of such statement by the *department of revenue* until paid. Upon the request of the state treasurer it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same."

Section 52. Section 84-1412, R.C.M. 1947, is amended to read as follows:

"84-1412. **Revocation of license.** The state *department of revenue* shall have the power to revoke the license of any person upon the conviction of such person of the violation of any of the provisions contained in the two preceding sections, but no revocation shall be made until due notice of the intention of the state *department of revenue* so to do shall have been given to such person and such person afforded an opportunity to appear before such state *department of revenue* and show cause why such license should not be revoked."

Section 53. Section 84-1501.2, R.C.M. 1947, is amended to read as follows:

"84-1501.2. **Election by small business corporation.** (a) **Eligibility.** Except as provided in subsection (f), any small business corporation may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter. Such election shall be valid only if all persons who are shareholders in such corporation—

(1) on the first day of the first taxable year for which such election is effective, if such election is made on or before such first day, or

(2) on the day on which the election is made, if the election is made after such first day, consent to such election.

(b) **Effect.** If a small business corporation makes an election under subsection (a), then—

(1) with respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of this act shall apply to such corporation, and

(2) with respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is in effect end, the provisions of this act shall apply to such shareholder, and with respect to such taxable years and all succeeding taxable years, the provisions of this act shall apply to such shareholder.

(c) Where and how made.

(1) In general. An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the *department of revenue* shall prescribe by regulations.

(2) Taxable years beginning before date of enactment. An election may be made under subsection (a) by a small business corporation for its first taxable year which begins after December 31, 1958, and on or before the date of the enactment of this subchapter, and ends after such date at any time—

(A) within the 90-day period beginning on the day after the date of the enactment of this subchapter, or

(B) if its taxable year ends within such 90-day period, before the close of such taxable year.

An election may be made pursuant to this paragraph only if the small business corporation has been a small business corporation (as defined in this act) on each day after the date of the enactment of this subchapter and before the day of such election.

(d) Years for which effective. An election under subsection (a) shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated, with respect to any such taxable year, under subsection (e).

(e) Termination.

(1) New shareholders. An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

(A) on the first day of the first taxable year of the cor-

poration for which the election is effective, if such election is made on or before such first day, or

(B) on the day on which the election is made, if such is made after such first day, becomes a shareholder in such corporation and does not consent to such election within such time as the *department of revenue* shall prescribe by regulations. Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.

(2) Revocation. An election under subsection (a) made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective.

An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective—

(A) for the taxable year in which made, if made before the close of the first month of such taxable year.

(B) for the taxable year following the taxable year in which made, if made after the close of such first month, and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the *state department of revenue* shall prescribe by regulations.

(3) Ceases to be small business corporation. An election under subsection (a) made by a small business corporation shall terminate if at any time—

(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) after the day on which the election is made, if such election is made after such first day, the corporation ceases to be a small business corporation (as defined in this act). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

(f) Election after termination. If a small business corporation has made an election under subsection (a) and if such election has been terminated or revoked under subsection (e), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year prior to its fifth taxable year which begins after the first tax-

able year for which such termination or revocation is effective, unless the state *department of revenue* consents to such election.

(g) This election shall not be effective unless the corporate net income or loss of such electing corporation shall have been included in the stockholders' adjusted gross income as such is defined in section 84-4905.

(h) Every electing corporation shall be required to pay the minimum fee of ten dollars (\$10.00) required by section 84-1501."

Section 54. Section 84-1502, R.C.M. 1947, is amended to read as follows:

"84-1502. **Deductions allowed in computing income.** In computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

1. All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

2. (A) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear of property arising out of its use or employment in the business or trade. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements or betterments made to increase the value of any property or estate and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(B) (a) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating loss carryovers to such taxable period plus the net operating loss carrybacks to such taxable period. The term "net operating loss" means the excess of the deductions allowed by this section, 84-1502, over the gross income,

with the modifications specified in paragraph (b) of this subsection. If for any taxable period beginning after December 31, 1970, a net operating loss is sustained, such loss shall be a net operating loss carryback to each of the three (3) taxable periods preceding the taxable period of such loss and shall be a net operating loss carryover to each of the five (5) taxable periods following the taxable period of such loss. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the net income for each of the prior taxable periods to which such loss was carried. For purposes of the preceding sentence, the net income for such prior taxable period shall be computed with the modifications specified in paragraph (b) (ii) of this subsection and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

(b) The modifications referred to in paragraph (a) of this subsection shall be as follows:

(i) No net operating loss deduction shall be allowed.

(ii) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

(c) A net operating loss deduction shall be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(d) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger.

In the case of consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidation.

(e) Notwithstanding the provisions of section 84-1508.1 (c), R.C.M. 1947, interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(f) The net operating loss deduction shall not be allowed with respect to taxable periods which ended on or before December 31, 1970, but shall be allowed only with respect to taxable periods beginning on or after January 1, 1971.

3. In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions

in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the state *department of revenue*; provided, however, for the purpose of determining depletion, depreciation and obsolescence, in all cases not expressly provided for in this act, the provisions of the most recent act of Congress of the United States, commonly known as the Federal Income Tax Act, and the rules, regulations and decisions thereunder, in so far as the same are applicable and pertinent and not repugnant to or inconsistent with the express provisions of this act, shall be the rule of decision by the state *department of revenue*.

4. The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this act.

5. Interest income from obligations of the state of Montana, or any political subdivision or municipality of the state of Montana.

6. Taxes paid within the year except the following: (a) Taxes imposed by this act.

(b) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

(c) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

Taxes deductible under this act shall be construed to include taxes imposed by any county, school district or municipality of this state."

Section 55. Section 84-1503, R.C.M. 1947, is amended to read as follows:

"84-1503. **Segregation of income within and without state.** If the income of any corporation from sources within the state cannot be properly segregated from income without the state, then, in that event, the amount of the net income returned shall be that proportion of the taxpayer's total net income which the taxpayer's gross business done in the state of Montana bears to the total gross business of the taxpayer, and apportionment shall be made under the rules and regulations prescribed by the state *department of revenue*, giving consideration to sales, property and payroll and such other factors as may be deemed applicable; provided, however, that the state *department of revenue* shall, upon

the presentation of satisfactory evidence, determine that the income from sources within the state of Montana may be properly segregated from income from sources without the state of Montana and shall allow separate accounting. The *department* shall publish not less than once every three (3) years, all rules and regulations and all changes in rules and regulations as they occur pertaining to this section. All decisions by the *department* under this section shall be subject to judicial review in an action prosecuted by the corporation in the district court of Lewis and Clark county. The taxpayer may not change from apportionment by formula to separate accounting or vice versa without first obtaining permission from the *department*."

Section 56. Section 84-1504, R.C.M. 1947, is amended to read as follows:

"84-1504. **Computation of license tax—return of net income to be filed.** (1) The license fee shall be computed upon the total net income of the corporation received within each preceding calendar year ending December 31; provided, that any corporation subject to this license fee may designate the last day of any month in the year as the day of the close of its fiscal year, and shall be entitled to have the license fee payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment, instead of upon the basis of the net income for the calendar year preceding the date of assessment, and it shall give notice to the state *department of revenue* of the day it has thus designated as the close of its fiscal year, at any time not less than thirty (30) days prior to the time its return would be filed if made upon the basis of the calendar year.

(2) Every corporation, subject to the license fee herein imposed, shall for each year hereafter, for the year ending on the thirty-first day of December, or for its fiscal year selected under the provisions hereof, render a true and accurate return of its annual net income in the manner and form to be prescribed by the state *department of revenue*, and containing such facts, data and information as are appropriate and in the opinion of the state *department of revenue* necessary to determine the correctness of the net income returned and to carry out the provisions of this act. The return shall be signed by the president, vice-president, or other principal officer, and by the treasurer, assistant treasurer, or chief accounting officer. If the corporation is reporting on a calendar year basis the return shall be filed with the state *department of revenue* on or before the fifteenth day of May in each year, and if reporting on a fiscal year basis the return shall be filed with said *department* on or before the fifteenth day of the



fifth month following the close of its fiscal year. Upon application a corporation shall be allowed an automatic extension of time for filing its return to the fifteenth day of the third month following the date prescribed for filing of its tax return. The application is to be made on such forms as the *department of revenue* shall prescribe. The *department of revenue* may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists. The term gross income means the income from all sources within the state of Montana recognized in the determination of the corporation's federal income tax liability; but shall include interest exempt from federal income tax. The term "net income" means the gross income of the corporation less the allowable deductions. However, the definitions of gross income and net income set forth in this section shall not be construed as allowing the deductions set forth in section 243 of the Federal Internal Revenue Code as now written, or as that section shall be labeled or amended. The term "fiscal year" means an accounting period of twelve (12) months ending on the last day of any month other than December.

(3) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of a corporation subject to the license fee imposed by this act, such receiver, trustee, or assignee shall make the return in the same manner and form as such corporation is hereinbefore required to make return, and any license fee due on the basis of such returns made by the receiver, trustee, or assignee, shall be assessed and collected in the same manner as if assessed directly against the corporation of whose business or property they have custody and control, and shall be paid by such receiver, trustee, or assignee out of the property of the company in his hands, prior to the claims of creditors or stockholders."

Section 57. Section 84-1505.1, R.C.M. 1947, is amended to read as follows:

"84-1505.1. **Release of tax liens.** (1) The state *department of revenue* shall issue a certificate of release of any lien imposed with respect to any tax due under Title 84, chapter 15, R.C.M. 1947, when it finds that the liability for the amount of tax assessed, together with all penalties and interest in respect thereof has been fully satisfied. The state *department of revenue* may issue a certificate of release if it determines that the lien is unenforceable.

(2) The state *department of revenue* may issue a certificate of discharge of any part of the property subject to any lien imposed with respect to any tax due under Title 84, chapter 15, R.C.M. 1947, if:

(a) It finds that the fair market value of that part of the

property remaining subject to the lien is at least double the value of the unsatisfied liability secured by such lien and the amount of all other liens upon the property which may have priority to such lien;

(b) There is paid to the state treasurer in part satisfaction of the liability secured by the lien, an amount which shall not be less than the value, as determined by the state *department of revenue*, of the interest of the state of Montana in the part to be discharged; or

(c) The state *department of revenue* determines at any time that the interest of the state of Montana in the part to be so discharged has no value."

Section 58. Section 84-1505.2, R.C.M. 1947, is amended to read as follows:

"84-1505.2. **Immediate payment of tax or deficiency due may be required if delay would jeopardize collection.** If the state *department of revenue* finds that the assessment or collection of the tax or a deficiency in tax due under any corporation license tax statute of Montana for any taxable period will be jeopardized in whole or in part by delay, it may mail notice of its findings to the taxpayer together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the board may declare the taxable period of the taxpayer immediately terminated, and shall mail or issue notice of its findings to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once."

Section 59. Section 84-1507, R.C.M. 1947, is amended to read as follows:

"84-1507. **Returns and corrections to be public records.** When the assessment shall be made as provided in this act, the returns, together with any corrections thereof which may have been made by the state *department of revenue*, shall be filed in the office of said *department*, and shall constitute public records and be open to inspection as such only upon the order of the governor, and under rules and regulations to be prescribed by the state *department of revenue*."

Section 60. Section 84-1508, R.C.M. 1947, is amended to read as follows:

"84-1508. **Regulations—attendance of witnesses—arbitrary assessment of net income.** The state *department of revenue* shall

have power to prescribe forms for the returns and notices and such other regulations as may from time to time be found necessary for the purpose of carrying into effect the provisions of this act. Jurisdiction is hereby conferred upon the district court of the first judicial district of the state of Montana, in and for the county of Lewis and Clark, to compel attendance of witnesses to testify before the state *department of revenue*, together with the production of books and such other testimony by appropriate process. When the state *department of revenue* has reason to believe that the business of any corporation is so conducted as either directly or indirectly to distort the true net income of the corporation and the net income properly attributable to this state, whether by the arbitrary shifting of income through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another corporation carrying on business under a substantially common control, it may require the disclosure of such facts as it deems necessary for the proper computation of the entire net income and the net income properly attributable to this state, and in determining the same, the *department* shall have regard to the fair profits which would normally arise from the conduct of the business."

Section 61. Section 84-1508.2, R.C.M. 1947, is amended to read as follows:

"84-1508.2. **Periods of limitation—limitations for notification of additional tax extended if taxpayer fails to report change in federal tax—waiver.** (1) Except as otherwise provided in this section and in section 84-1513, R.C.M. 1947, no deficiency shall be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within five (5) years from the date the return was filed. For the purposes of this section a return filed before the last day prescribed for filing shall be considered as filed on such last day. Where before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax shall not apply when a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by section 84-1517, R.C.M. 1947, until five (5) years after the federal changes become final or the amended federal return was filed, whichever the case may be.

(2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after five (5) years from the last day prescribed for filing the return or after one (1) year

from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the state *department of revenue* has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the state *department of revenue* may propose an additional assessment, the period within which a claim for refund or credit may be filed, or a credit or refund allowed in the event no claim is filed, shall automatically be so extended."

Section 62. Section 84-1509, R.C.M. 1947, is amended to read as follows:

"84-1509. **Consolidated returns—computation and procedure on.** (1) Corporations which are affiliated may not file a consolidated return unless at least eighty per cent (80%) of all classes of stock of each corporation involved is owned directly or indirectly by one (1) or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and permission to file a consolidated return is given by the state *department of revenue*. For purposes of this section, a "unitary business operation" means one in which the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations.

(3) If the conditions of subsections (1) and (2) of this section are met, the state *department of revenue* may require corporations to file a consolidated return when the *department* considers a consolidated return necessary.

(4) Any corporation liable to report under this act and owning, or controlling, either directly or indirectly, at least eighty per cent (80%) of all classes of stock of each corporation involved, may be required to make a consolidated report showing the combined net income [...] such assets of the corporation as are required for the purposes of this act, and such other information as the state *department of revenue* may require, but excluding intercorporate stockholdings and intercorporate accounts. Any corporation liable to report under this act and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, such assets of the corporation as are required for the purposes of this act, and such other information as the state *department of revenue* may require, but excluding inter-

corporate stockholdings and intercorporate accounts. In case it shall appear to the state *department of revenue* that any arrangement exists in such a manner as to improperly reflect the business done, the segregable assets or the entire net income earned from business done in this state, the state *department of revenue* is authorized and empowered, in such manner as it may determine, to equitably adjust the tax."

Section 63. Section 84-1512, R.C.M. 1947, is amended to read as follows:

"84-1512. **Where omission deemed committed—certificate of department as evidence.** The failure to do any act, required by or under the provisions of this act, shall be deemed an act committed in the office of the state *department of revenue* in the state capitol building, in Helena, Montana. The certificates of the state department of revenue to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied."

Section 64. Section 84-1514, R.C.M. 1947, is amended to read as follows:

"84-1514. **Delinquency—suspension—forfeiture-dissolution.** If a tax computed and levied hereunder is not paid or if a return is not filed before five o'clock P. M. on the last day of the eleventh month after the date of delinquency the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic corporation, shall be suspended, and if the delinquent taxpayer be a foreign corporation it shall thereupon forfeit its rights to do intrastate business in this state. Provided that, if any domestic corporation shall fail, for a period of five consecutive years, to either file a return or to pay the corporation license tax, the state *department of revenue* shall notify such corporation by mail addressed to the latest address on file in its office that such corporation will become dissolved if it fails to file all delinquent reports and pay all delinquent corporation license taxes within a period of sixty (60) days from and after the mailing of such notice, and, if such delinquent reports are not made and all delinquent corporation licenses are not paid before the expiration of said sixty (60) day period, the state *department of revenue* shall certify this fact to the secretary of state and upon receipt of such certificate, the said corporation shall be dissolved and the secretary of state shall indicate, by his records, such dissolution.

The state *department of revenue* shall transmit the name of each such corporation to the secretary of state, who shall imme-

diately record the same in such manner that it may be available to the public. The suspension, forfeiture or dissolution herein provided for shall become effective immediately such record is made, and the certificate of the secretary of state shall be conclusive evidence of such suspension, forfeiture or dissolution."

Section 65. Section 84-1515, R.C.M. 1947, is amended to read as follows:

"84-1515. **Reviver of corporation after suspension or forfeiture.**

Any corporation which has suffered the suspension or forfeiture referred to in the preceding section may be relieved therefrom upon making application therefor in writing supported by a certificate from the state *department of revenue* showing that the required return has been made and filed and/or that the tax and interest and penalties have been paid, for which the suspension or forfeiture occurred. Application for reviver may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the secretary of state, for which he shall receive a filing and recording fee of five dollars (\$5). In case the application is made more than one (1) year from the date the suspension or forfeiture occurred the applicant shall pay twice the amount of the tax and penalties due the state for the taxable year with respect to which the suspension or forfeiture occurred, and upon such payment the secretary of state shall issue a certificate of reviver for which he shall collect a fee of five dollars (\$5) and thereupon the applicant shall be revived. The reviver shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture. The certificate of reviver shall be prima facie evidence of the reviver. Any certificate of reviver provided for in this section may be recorded in the office of the county recorder in any county of this state."

Section 66. Section 84-1516, R.C.M. 1947, is amended to read as follows:

"84-1516. **Penalty for violation of act.** Every officer or employee of any corporation or other person, who, without fraudulent intent, shall fail to make, render, sign or verify any return, or to supply any information within the time required by or under the provisions of this act, shall be liable to a penalty of not more than one hundred dollars (\$100) to be imposed, assessed, and collected by the state *department of revenue* in the same manner as is provided in this act with regard to delinquent taxes."

Section 67. Section 84-1517, R.C.M. 1947, is amended to read as follows:

**"84-1517. Failure to make return—estimate and investigation of net income—copy of federal return to be furnished on request—report of change in federal tax—copy of amended federal returns.**

(1) If any taxpayer fails to make return as herein required, the state *department of revenue* is authorized to make an estimate of the taxes due from such taxpayer from any information in its possession.

(2) The state *department of revenue*, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of net income of any corporations where information has been obtained, shall also have power to examine or to cause to have examined by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of any officer or employee of the corporation rendering such return or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for its information.

(3) Every corporation shall, upon request of the state *department of revenue*, furnish a copy of its federal income tax return and the computation schedule filed for such taxable year or years as the said *department* may specify in its request. If the amount of a corporation taxable income reported on its federal income tax return or the computation schedule filed for any taxable year is changed or corrected by the United States internal revenue service or other competent authority, the corporation shall report such proposed change or correction to the state *department of revenue* within ninety (90) days after receiving official notice thereof. Any corporation filing an amended federal income tax return changing or correcting its taxable income for any taxable year shall also file an amended return with the state *department of revenue* within ninety (90) days thereafter."

Section 68. Section 84-1518, R.C.M. 1947, is amended to read as follows:

**"84-1518. Reciprocity with federal and other states' revenue officers regarding returns.** The state *department of revenue* under such rules as they may prescribe, may permit, notwithstanding the provisions of this act as to secrecy, the commissioner of internal revenue of the United States, or the proper officer of any state imposing a tax on or according to income, to inspect the returns of any taxpayer making returns under this act, or may furnish to such officer or his authorized representative an abstract or any return or matter contained in any affidavit, statement or certificate made or filed in connection with any return or any tax or credit claimed as a deduction from any tax, or any information dis-

closed by the report of any investigation relating to the income or tax of any taxpayer; but such permission shall be granted or information furnished to such officer, or his representative, only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act."

Section 69. Section 84-1601, R.C.M. 1947, is amended to read as follows:

**"84-1601. Electrical energy producers' license tax.** That in addition to the license tax now provided by law, each and every individual, firm, partnership, common-law trust, corporation, association or other organization now engaged in the generation, manufacture or production of electricity, and electrical energy in the state of Montana, either through water power or by any other means, for barter, sale or exchange and hereinafter referred to as the "producer," shall on or before the fifteenth day of each calendar month beginning with the fifteenth day of May, 1969, render a statement to the state *department of revenue* of the state of Montana, showing the gross amount of money received on account of sales of electricity and electrical energy during the preceding calendar month without any deduction, and shall pay a license tax thereon in the sum of one and four hundred thirty-eight thousandths per cent (1.438%) of such gross amount as shown on such statement in the manner and within the time hereinafter provided; and such tax shall be effective for the taxable year commencing April 1, 1969, and also for each taxable year thereafter."

Section 70. Section 84-1603, R.C.M. 1947, is amended to read as follows:

**"84-1603. Disposition of revenue—interest on delinquency.** The state *department of revenue* shall receipt therefor and promptly turn the same over to the state treasurer. Taxes not met on the due date shall become delinquent and shall bear interest from said due date at the rate of twelve per cent (12%) per annum."

Section 71. Section 84-1604, R.C.M. 1947, is amended to read as follows:

**"84-1604. Statement of producer—contents—time for filing.** On or before the fifteenth (15) day of April, 1934, every producer referred to in section 84-1601, engaged in the production, generation or manufacture of electricity or electrical energy, shall make and file with the state *department of revenue* of the state of Montana, on forms prescribed by the state *department of revenue*, an acknowledged and verified certificate which shall contain:

(a) The name under which the producer is transacting business within the state;

(b) His or its post-office address and principal place of business within the state;

(c) The address and location of his or its production plants or station in the state of Montana;

(d) The name and address of the managing agent;

(e) The names and addresses of the several persons composing any firm or partnership constituting the producer, and if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its officers, directors, general agent and general manager.

(f) Certified copies of any papers necessary to show that such producer has complied with the laws of the state of Montana in order to transact business in Montana."

Section 72. Section 84-1605, R.C.M. 1947, is amended to read as follows:

"84-1605. **Producers' monthly statement of gross sales—inspection of books of producer.** That every such producer shall on or before the fifteenth (15) day of each calendar month, beginning with April 15, 1934, and monthly thereafter, render to the state *department of revenue* of the state of Montana on forms prescribed by the state *department of revenue*, a statement sworn to by the manager, president, secretary or treasurer, showing the gross proceeds received for or on account of, all sales of electricity and electrical energy for the preceding calendar month. The books and records of such producer shall be subject to inspection by the state *department of revenue*, its agents or employees, during reasonable hours."

Section 73. Section 84-1606, R.C.M. 1947, is amended to read as follows:

"84-1606. **Exemptions.** All electricity and electrical energy used for pumping water for irrigation purposes to be used on lands in the state of Montana is exempt from the provisions of this act, except in cases where the water so pumped is sold or rented to such irrigated lands; provided, the exemption here given shall accrue to the benefit of the consumer of such electricity and electrical energy. Provided, further, that the full amount of such license tax which would have been due from such producers of electricity and electrical energy, if such exemption had not been made, shall be credited annually for the year in which the exemptions are made, on the power bill of the consumer, by the producer of such electricity and electrical energy, furnishing such power and such producer shall include a statement of the amount of electricity and electrical energy exempted by this section, furnished by it for the purpose of pumping

water for irrigation purposes on lands in the state of Montana, to the state *department of revenue* as part of the statement required by section 84-1601, together with a statement of credits made on the power bills to the consumers of such electricity and electrical energy for the pumping of water for irrigation to be used on lands in the state of Montana."

Section 74. Section 84-1608, R.C.M. 1947, is amended to read as follows:

"84-1608. **False statements constitute perjury.** Any person, officer, partner, agent or representative of any producer referred to in section 84-1601, who shall make any false statement, affidavit, certificate, report or statement herein required to be made to the state *department of revenue*, hereunder, shall be deemed guilty of perjury and upon conviction shall be punished by imprisonment in the state penitentiary for not less than one (1) nor more than fourteen (14) years."

Section 75. Section 84-1702, R.C.M. 1947, is amended to read as follows:

"84-1702. **Statements to be filed with state *department of revenue*.** Any express company as defined in the presiding section, doing business in this state, shall annually, between the first and thirtieth day of April, after the approval of this act, under oath of the person constituting such company, if a person, or under oath of the president, treasurer, superintendent of chief officer in this state of such association or corporation, if an association or corporation, make and file with the state *department of revenue*, a statement in such form as the *department* may prescribe, containing the following facts:

First. The name of the person or persons, association or corporation;

Second. Under the laws of what state or country organized;

Third. The location of its principal office;

Fourth. The names and post-office address of the president, secretary, auditor, treasurer, superintendent and general manager;

Fifth. The name and post-office address of the chief officer or managing agent of the company in this state;

Sixth. The entire receipts (including all sums entered or charged whether actually received or not) for business done by such company within this state, including its proportion of gross receipts for business done by such company within the state in connection with other companies;

Seventh. Such other facts and information as the said board may require in the form of return prescribed by it."

Section 76. Section 84-1703, R.C.M. 1947, is amended to read as follows:

"84-1703. **Gross receipts—how ascertained.** The state *department of revenue* shall proceed to ascertain and determine on or before the first Monday of August in each year the entire gross receipts of each of said express companies for business done within the state of Montana for the year next preceding the first day of April, and the amount so ascertained by the said board shall be held and deemed to be the gross receipts of such express company for business done within the state of Montana for the year under consideration."

Section 77. Section 84-1705, R.C.M. 1947, is amended to read as follows:

"84-1705. **Penalty for failure to make statement—duty of attorney general to institute action.** In case any express company shall refuse, fail or neglect to make and file the statement or schedule as provided for in this act, such company shall be subject to a penalty of five hundred dollars and an additional penalty of one hundred dollars for each day's omission after the thirtieth day of April to file its statement, said penalty to be recovered by action in the name of the state and on collection paid into the state treasury to the credit of the general fund of the state. The attorney general, on request of the state *department of revenue*, shall institute such action against any such person or persons, joint-stock company or corporation so delinquent in any court of competent jurisdiction in this state."

Section 78. Section 84-1707, R.C.M. 1947, is amended to read as follows:

"84-1707. **Amount and collection of license tax.** The state *department of revenue* shall, on the first Monday of August, annually, enter in a book provided for that purpose the amount of gross receipts of express companies doing business in this state for the year next preceding the first day of April, as determined by the provisions of this act. It shall be the duty of the state treasurer annually to collect from each such express company doing business in this state, a sum in the nature of a license tax to be computed by taking four per centum of the amount fixed by the state *department of revenue* as the gross receipts of such express company for business done within the state for the year next preceding the first day of April as determined and certified by the state *department of revenue*; provided, however, that nothing contained in this act shall exempt or relieve any express company from the assessment

and taxation of its tangible property in the manner authorized and provided by law. All licenses collected under the provisions of this act shall be accredited to the general fund of the state."

Section 79. Section 84-1831, R.C.M. 1947, is amended to read as follows:

"84-1831. **Definitions.** As used in this act, the following definitions shall apply:

(a) "Person" means and includes any person, firm, association, joint-stock company, syndicate, copartnership, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, as applied to a firm, association, syndicate, or copartnership, means and includes the partners or members thereof, and as applied to joint-stock companies and corporations, the officers thereof.

(b) "*Department*" means the state *department of revenue*.

(c) As used in this act, "public roads and highways of this state" shall mean all streets, roads, highways, and related structures as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall be, built and maintained with funds of the state of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain, or have been acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision thereof.

(d) "Motor vehicle" means any vehicle which is self-propelled upon the highways.

(e) "Special fuel" means those combustible gases and liquids commonly referred to as liquid petroleum gases and also diesel fuel or any other volatile liquid of less than forty-six degrees (46°) A.P.I. (American Petroleum Institute) gravity test, when actually sold for use in motor vehicles propelled upon the public highways or streets within the state of Montana.

(f) "Use" means either the receipt, delivery or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him, while such vehicle is within this state, or the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state.

(g) "Special fuel dealer" means any person in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him. For this purpose the term "fuel supply tank or tanks" does

not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

(h) "Special fuel user" means any person other than a county, incorporated city or town or school district of this state, who consumes in this state special fuel for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(i) "Bond" means: (1) a bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, which bond shall be payable to the state of Montana conditioned upon faithful performance of all requirements of this act, including the payment of all taxes, penalties and other obligations of such special fuel dealer or special fuel user arising out of this act; or (2) a deposit with the state treasurer by the special fuel dealer or special fuel user under such terms and conditions as the *department* may prescribe of a like amount of lawful money of the United States or bonds or other obligations of the United States or the state of Montana or of any county thereof, of an actual market value not less than the amount so fixed by the board."

Section 80. Section 84-1832, R.C.M. 1947, is amended to read as follows:

"84-1832. **Tax imposed.** There is hereby levied and imposed a tax on the use of each and every gallon of special fuel in any motor vehicle while operated upon the highways, equivalent to the lawful tax levied on motor fuel under section 84-1832.1. Said tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, shall attach at the time of such delivery and shall be collected by such special fuel dealer from the special fuel user and shall be paid over to the *department* as hereinafter provided. Said tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, shall attach at the time of the consumption of such fuel in the propulsion of a motor vehicle upon the highways of the state and shall be paid over to the *department* by the special fuel user as hereinafter provided. The various counties, incorporated cities and towns and school districts of this state shall be exempt from the levy and imposition of this tax."

Section 81. Section 84-1832.1, R.C.M. 1947, is amended to read as follows:

"84-1832.1. **Tax to be collected on diesel fuel and liquid petroleum gas, when.** The state *department of revenue* shall, under the provisions of rules and regulations issued by the *department*, collect or cause to be collected from the owners or operators of

motor vehicles a tax in an amount equal to nine cents (\$.09) for each gallon of diesel fuel or other volatile liquid, of less than forty-six degrees (46°) A.P.I. (American Petroleum Institute) gravity test, and seven cents (\$.07) for each gallon of liquid petroleum gas when actually sold or used to produce motor power to propel motor vehicles upon the public highways or streets within the state of Montana, or used in motor vehicles, motorized equipment and the internal combustion of any and all engines including stationary engines used in connection with any and all work performed under any and all contracts pertaining to the construction, reconstruction or improvement of any highway or street and their appurtenances awarded by any and all public agencies, including federal, state, county, municipalities, or other political subdivisions."

Section 82. Section 84-1834, R.C.M. 1947, is amended to read as follows:

"84-1834. **Special fuel dealers' and special fuel users' records.**

(a) Preparation of records and inspection of: Every special fuel dealer, special fuel user and every person importing, manufacturing, refining, dealing in, transporting or storing, special fuel in this state, shall keep such records, receipts and invoices and other pertinent papers, with respect thereto as the *department* may require, and shall produce them for the inspection of the *department* at any time during the business hours of the day.

(b) Retention of records: Said records, receipts, invoices and other pertinent papers shall be required to be kept for a period of at least five (5) years from the date on which the return to which they relate was required to have been made."

Section 83. Section 84-1835, R.C.M. 1947, is amended to read as follows:

"84-1835. **Returns and payments.** (a) Returns: For the purpose of determining the amount of his liability for the tax herein imposed, each special fuel dealer and each special fuel user shall file with the *department*, on forms prescribed by said *department*, a monthly tax return.

Upon annual application the *department* shall waive the filing of a monthly tax return of any special fuel user who establishes that such user's monthly tax liability is or will be ten dollars (\$10) or less.

Such user shall make an annual report and return to the *department*, on forms prescribed by said *department* on or before the 25th day of January of each year hereafter. Should the *department* determine that a user filing annual returns as herein provided is delinquent in making reports and payments, it shall require such

person to file monthly returns as herein provided. Such return, annual or monthly, shall contain a declaration by the person making the same, to the effect that the statements contained are true and are made under penalties of perjury, which declarations shall have the same force and effect as a verification. The return shall show such information as the *department* may reasonably require for the proper administration and enforcement of this act; provided, however, that if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly return to the *department* need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall file the return on or before the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period to which it relates; provided, however, that for good cause the *department* may grant a taxpayer a reasonable extension of time for filing, but not to exceed thirty (30) days.

Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail, shall be deemed filed and received by this state on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted, shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such nonreceipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within thirty (30) days after written notification is given to the sender by the state of its nonreceipt of such claim, statement, remittance, or other document.

If any claim, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

If the final filing date falls on a Saturday, Sunday or legal holiday, the next secular or business day shall be the final filing

date. Such reports shall be considered filed or received on the date or as provided in this chapter.

(b) **Computation:** The tax imposed by this act shall be computed as follows: (1) with respect to special fuel used by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel delivered or placed by him into the supply tank or tanks of a motor vehicle, (2) with respect to special fuel as to which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel consumed by him in the propulsion of motor vehicles on the highways of this state.

(c) **Payments:** The monthly tax return shall be accompanied by remittance covering the tax due hereunder on account of the use as defined in 84-1831(f) of special fuels during the preceding month.

(d) **Refusal or failure to file return or pay tax when due:** In case of any special fuel dealer or special fuel user who refuses or fails to file a return required by this act within the time prescribed by subsection (a) of this section, there is hereby imposed a penalty of twenty-five dollars (\$25) or a sum equal to twenty-five per cent (25%) of the tax due, whichever is greater, together with interest at the rate of one per cent (1%) on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues; provided, however, that if any such special fuel dealer or special fuel user shall establish to the satisfaction of the *department* that his failure to file a return within the time prescribed was due to reasonable cause, the *department* shall waive the penalty provided by this subsection.

(e) **Failure to pay tax:** Where a special fuel dealer or a special fuel user files a return, but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one per cent (1%) per month or fraction thereof, from the date such tax was due to the date of payment in full thereof.

(f) **Deficiency:** If it be determined by the *department* that the tax reported by any special fuel dealer or special fuel user is deficient, it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency interest at the rate of one per cent (1%) per month or fraction thereof from the date the return was due.

(g) **Determination if no return made:** If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due,



the *department* shall, on the basis of information available, to it, determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the *department* shall add the penalty and interest provided in subsection (d) above.

An assessment made by the *department* pursuant to this subsection or to subsection (f) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(h) **Fraudulent return:** If any special fuel dealer or special fuel user shall file a false or fraudulent return with intent to evade the tax imposed by this act, there shall be added to the amount of deficiency determined by the *department* a penalty equal to twenty-five per cent (25%) of the deficiency together with interest at one per cent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment, in addition to all other penalties prescribed by law.

(i) **Limitation:** Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed under subsection (f) above within five (5) years after the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within five (5) years after the return is filed, whichever period expires the later."

Section 84. Section 84-1837, R.C.M. 1947, is amended to read as follows:

"84-1837. **Procedures for credits.** Should a licensed special fuel user or licensed special fuel dealer desire to receive refund of special fuel taxes or of the temporary permit fee, the user or dealer shall make a signed and written request to the *department* requesting those amounts then due. Any amount determined to be creditable by the *department* under section 84-1836 shall first be credited on any amounts then due and payable from the special fuel dealer or special fuel user to whom the refund is due, and the *department* shall then certify the balance to the credit of the dealer or user, and a warrant shall be drawn upon the state treasurer for the amount of such claim and same shall be paid in the same manner as other claims against the state are paid.

Provided however, in case any special fuel user or special fuel dealer fails or neglects to file a request for refund of special fuel taxes within twelve (12) months from the date his special fuel

license became canceled, the *department* shall be under no obligation to make a refund."

Section 85. Section 84-1838, R.C.M. 1947, is amended to read as follows:

"84-1838. **Administration.** (a) Rules and regulations: The *department* shall enforce the provisions of this act, and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement thereof.

(b) **Examination of records:** The department or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any special fuel dealer or special fuel user or any person dealing in, transporting, or storing special fuel as defined in this act and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records and equipment are not maintained in this state at the time of demand, they shall be furnished to the *department* for review and shall be accompanied by the special fuel dealer or special fuel user or such dealer or user shall bear the reasonable cost of examination by an agent authorized or designated by the *department* at the place where such books or records are kept provided the taxpayer shall not be liable for such costs for a period exceeding one (1) week or for such longer period as he may consent to in writing, unless the result of said examination is the payment of a tax deficiency.

(c) **Evidence:** For the purpose of enforcing the provisions of this act, the fact that a special fuel dealer or a special fuel user has placed or received special fuel into storage or dispensing equipment designed to fuel motor vehicles shall be prima facie evidence that all of such special fuel has been delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor vehicles and consumed in the propulsion of motor vehicles upon the highways as herein defined unless the contrary shall be established by satisfactory evidence.

(d) **Reciprocal exchange of data:** The *department* shall, upon request from officials to whom are entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the receipt, storage, delivery, sale, use or other disposition of special fuel by any special fuel dealer or special fuel user, provided such other state or states furnish like information to this state."

Section 86. Section 84-1841, R.C.M. 1947, is amended to read as follows:

"84-1841. **Judicial review and appeals.** Any determination of the *department* hereunder may be reviewed by the district court of Lewis and Clark county, and an appeal may be taken from the judgment of said district court to the supreme court."

Section 87. Section 84-1842, R.C.M. 1947, is amended to read as follows:

"84-1842. **Special fuel user's temporary trip permits—agents by whom issued.** Any person operating a special fuel-powered vehicle upon the public roads and highways of this state who fails or neglects to carry in the vehicle a valid special fuel vehicle permit, as provided by section 84-1833, shall be required to purchase a special fuel user's temporary permit. The permits will be issued by scale house personnel, gross vehicle weight (g.v.w.) patrol crews, Montana highway patrolmen, and such other enforcing agents as the *department of revenue* may prescribe by order, rule or regulation."

Section 88. Section 84-1843, R.C.M. 1947, is amended to read as follows:

"84-1843. **Fees for temporary permits—time of expiration—disposition of fees—forms.** The temporary special fuel permits shall cost the special fuel vehicle user a fee of twenty dollars (\$20.00); said permit shall be valid for a period of time not to exceed seventy-two (72) hours and will be automatically void should said vehicle leave the state of Montana during the seventy-two (72) hour period. All fees collected will be remitted to the state *department of revenue*. Special fuel temporary permits, remittance forms and any other necessary papers for the accounting and enforcement of this act shall be furnished by the state *department of revenue*."

Section 89. Section 84-1844, R.C.M. 1947, is amended to read as follows:

"84-1844. **Penalty for operation without temporary permit — compliance bonds.** Any unlicensed user of special fuel vehicles operating within the state of Montana, without making application for said temporary permit, and paying the specified fee, shall be guilty of committing a misdemeanor and upon conviction, be fined fifty dollars (\$50). Nothing contained herein shall affect the existing policy of accepting a compliance bond to be retained for use by the state *department of revenue* and to be imposed at the discretion of the enforcing agency."

Section 90. Section 84-1847, R.C.M. 1947, is amended to read as follows:

"84-1847. **Gasoline license tax—amount.** Every distributor shall pay to the state *department of revenue* a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to one cent (1¢) for each gallon of aviation gasoline, which shall be allocated to the aeronautics commission as provided by section 1-501, R.C.M. 1947, as amended, and seven cents (7¢) for each gallon of all other gasoline distributed by him within the state and upon which the gasoline license tax has not been paid by any other distributor. Gasoline exported or sold for export out of the state of Montana shall not be included in the measure of the distributor's license tax."

Section 91. Section 84-1849, R.C.M. 1947, is amended to read as follows:

"84-1849. **Distributors' statements—payment of the tax.** Each distributor shall, not later than the twenty-fifth day of each calendar month render a true statement to the state *department of revenue*, duly signed, of all gasoline distributed and received by him in this state during the preceding calendar month, and containing such other information as the state *department of revenue* may reasonably require in order to administer the gasoline license tax law. The statement shall be accompanied by a payment in an amount equal to the tax imposed by section 3 (84-1847) of this act, less any refund credit issued under section 11 (84-1855) of this act, and less two per cent (2%) of the first six cents (6¢) tax which shall be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by such distributor; provided, however, that no such allowance shall be deducted from the one cent (1¢) tax on aviation gasoline.

Any distributor engaged in or carrying on his business at more than one (1) place or location in this state may include all such places of business in one (1) statement."

Section 92. Section 84-1850, R.C.M. 1947, is amended to read as follows:

"84-1850. **Examination of records.** The *department*, or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any gasoline distributor or any person dealing in, transporting, or storing gasoline as defined in this act and to investigate the character of the disposition which any person makes of such gasoline in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records and equipment are not maintained in this state at the time of demand they shall be furnished to the *department* for review or such dealer shall bear the reasonable cost of examination by an agent authorized or desig-

nated by the *department* at the place where such books or records are kept, provided the taxpayer shall not be liable for such costs for a period exceeding one (1) week or for such longer period as he may consent to in writing, unless the result of such examination is the payment of a tax deficiency."

Section 93. Section 84-1851, R.C.M. 1947, is amended to read as follows:

"84-1851. **Records to be kept.** Each distributor or any other person dealing in, transporting, receiving or storing gasoline shall keep for a period not to exceed three (3) years such records, receipts and invoices and any other pertinent papers and information as the state *department of revenue* may require."

Section 94. Section 84-1852, R.C.M. 1947, is amended to read as follows:

"84-1852. **Inspection of records.** The records, receipts and invoices and any other pertinent papers supporting sales of every distributor or any person dealing in, transporting or storing gasoline shall be open and subject to inspection by the state *department of revenue* or any of its employees or assistants during business hours in order to ascertain the amount of license tax due."

Section 95. Section 84-1853, R.C.M. 1947, is amended to read as follows:

"84-1853. **Invoice of distributors and aviation dealers.** Each distributor and aviation dealer in this state shall at the time of delivery, except where authorized by the *department*, issue to the purchaser an invoice in which shall be stated the number of gallons of gasoline covered by such invoice and such other information as the state *department of revenue* may require."

Section 96. Section 84-1854, R.C.M. 1947, is amended to read as follows:

"84-1854. **Information reports.** Any person receiving gasoline, including every common carrier, private carrier and contract carrier of property who shall haul, receive, transport, or ship any gasoline, from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state, shall submit to the *department of revenue* upon its request and within the time specified a statement showing the number of gallons of gasoline contained in each shipment in interstate commerce and the movement of such products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and

addresses of the consignor and the consignee and the date of delivery to the consignee.

In case of any person, except licensed distributors, who refuses or fails to file a statement as herein provided for, there is hereby imposed a penalty of twenty-five dollars (\$25) for each failure or refusal, provided, however, that if any person shall establish to the satisfaction of the *department* that his failure to file a statement as prescribed by the *department* was due to reasonable cause, the *department* shall waive the penalty."

Section 97. Section 84-1855, R.C.M. 1947, is amended to read as follows:

"84-1855. **Refund of gasoline license tax-procedure.** (1) Any person who shall purchase and use any gasoline, on which the Montana gasoline license tax has been paid, for operating or propelling stationary gasoline engines, tractors used off the public highways and streets, motorboats, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Provided, that such refund or drawback should in no instance exceed the tax paid or to be paid, to the state of Montana [, and no refund shall be allowed of that portion of the tax per gallon upon aviation gasoline allocated to the state aeronautics commission by section 1-501, R.C.M. 1947].

Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid.

The application for refund shall be a signed statement on a form furnished by the *department*, accompanied by the invoice or invoices issued to the claimant, showing the total amount of gasoline purchased, the total amount of gasoline on which a refund is claimed, and the amount of the tax claimed for refund. Such further information pertaining to such claim shall be furnished as required by the *department*, provided that mileages of vehicles, where not verifiable by mechanical recorders, may be estimated by the applicant under regulations adopted by the board. Such regulations adopted by the *department* may include provisions for refunding taxes on gasoline used by licensed commercial vehicles off the highway. On the reverse of the applicant's copy of such form shall be printed the instructions and rules of the *department* pertaining to completion of the form. If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the *department*.

(2) All applications for refunds shall be filed with the *department of revenue* within fourteen (14) months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous payment. The *department* shall have one hundred twenty (120) days after receiving the claim to approve or reject it. If approved, the *department* shall issue a credit in lieu of refund for the amount of the claim, if the claimant is a distributor. For all other persons, a warrant shall be drawn upon the state treasurer for the amount of the claim.

(3) Should the *department of revenue* find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected, or the *department* may require the claimant to file an amended statement. If the state *department of revenue* determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the *department* may reject such claim in full. If a claim is rejected, the *department* may suspend claimant's right to refund for a period not to exceed one (1) year.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state *department of revenue*. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the *department*.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state *department of revenue* shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

A fee of one dollar (\$1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state *department of revenue* prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places

of business in the state of Montana, and other information which may be required by the *department*. Permits issued shall bear a permit number and the date of issuance. The *department* shall keep a record of all permits issued, canceled, or suspended. Permits shall be issued for the calendar year upon payment of a fee of one dollar (\$1) and must be renewed annually before the first day of January.

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars (\$25) or more than two hundred dollars (\$200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment."

Section 98. Section 84-1857, R.C.M. 1947, is amended to read as follows:

"84-1857. **License and bond of gasoline distributors.** All gasoline distributors prior to the commencement of doing business shall file an application for a license with the state *department of revenue* on forms prescribed and furnished by the *department* setting forth the information as may be requested by the *department*. Each distributor shall at the same time file a corporate surety bond or such collateral security or indemnity as may be deemed sufficient by the state *department of revenue*, but in no case more than twice the estimated amount of gasoline taxes the distributor will pay to this state each month. Upon approval of the application, the state *department of revenue* shall issue to the distributor a nonassignable license which shall continue in force until surrendered or canceled."

Section 99. Section 84-1858, R.C.M. 1947, is amended to read as follows:

"84-1858. **Penalties—delinquent payment—procedure in case of failure to file statement or pay tax—lien for tax.** Any license tax not paid within the time provided shall be delinquent and a penalty of ten per cent (10%) shall be added to the tax and the tax shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid. Upon a showing of good cause by the distributor, the *department* may waive penalty.

If any distributor or other person subject to the payment of such license tax shall willfully fail, neglect, or refuse to make any statement required by this act, or shall willfully fail to make payment of such license tax within the time provided, the state *department of revenue* shall be authorized to revoke any license issued under this act. In addition, the *department* shall inform itself regarding the matters required to be in such statement and

determine the amount of the license tax due the state from such distributor, and shall add thereto a penalty of twenty-five dollars (\$25) or ten per cent (10%) thereof, whichever is greater, together with interest at the rate of one per cent (1%) per month from the date such statements should have been made and said license tax paid. The state treasurer shall proceed to collect such license tax with penalties and interest. Upon the request of the state treasurer, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect such license tax. All license taxes, penalties and interest due from any distributor under the provisions of this act, shall be a lien upon any and all property of such distributor or other person upon the filing by the state *department of revenue* of a copy of its statement, or a certified copy of any statement filed with the *department*, in the office of the county clerk of the county where the distributor's property is situated. The lien shall have precedence over any other claim, lien or demand filed or recorded thereafter. The lien may be enforced in the name of this state in the same manner as judgment liens are enforced. No action shall be maintained to enjoin the collection of all or any part of the license tax. When the amount due is paid in full before the entry of foreclosure decree, the state treasurer shall release the lien by filing in the office of the county clerk where the lien was filed, a written release. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of the lien a part of the distributor's property to enable the distributor to mortgage, sell or otherwise dispose of it in order to procure funds to pay taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to the lien to ensure the payment of all the unpaid taxes, penalty and interest."

Section 100. Section 84-1861, R.C.M. 1947, is amended to read as follows:

"84-1861. **Rules and regulations to be established by state department.** The state *department of revenue* shall have the power, and it shall be its duty to adopt, publish and enforce the rules and regulations consistent with and necessary for carrying out the provisions of this act."

Section 101. Section 84-2003, R.C.M. 1947, is amended to read as follows:

"84-2003. **Gross value of products, how determined.** The total "gross value of product" as used in this act, shall mean the market value of all merchantable metals, precious and semiprecious gems

and stones extracted or produced, each year from any mine or mining property in the state of Montana or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from any such mine or mining property or from tailings resulting from the smelting, reduction or treatment of any such ores. That whenever the ores require smelting, reduction, or treatment to ascertain the metal contents of such ores, the gross value of the product thereof shall be determined by taking the market value of all merchantable metals or mineral products extracted or recovered thereby, as shown by the gross smelter returns of such metals or mineral product in dollars and cents, without any deductions for costs of smelting, reduction or treatment, or otherwise, based upon the average quotations of the price of such metals, or mineral products, in the city of New York, as evidenced by some established authority or market report, such as the Engineering and Mining Journal of New York City, or other standard publications, giving the market reports during the calendar year immediately preceding. Should there be no quotation covering any particular product, then the state *department of revenue* shall fix the value of such gross product, or such portion thereof, in such a manner as may seem equitable."

Section 102. Section 84-2005, R.C.M. 1947, is amended to read as follows:

"84-2005. **Statement of gross value of product.** Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semiprecious gems or stones are produced, must, not later than the fifteenth day of April, in such year when engaged in or carrying on any such business, work or operation, make out a statement of the gross value of product from all mines and mining properties worked or operated by such person during the calendar year immediately preceding. Such statement shall be in the form prescribed by the state *department of revenue*, and must be verified by the oath of such person, or the manager, superintendent, agent, president or vice-president of the corporation, joint stock or other company or syndicate and must be delivered to the state *department of revenue* not later than the fifteenth day of April. Such statement shall show the following:

1. The name and address of the owner or lessee of the mine or mining property.
2. The description and location of the mine or mining property.
3. The number of tons of ore or other mineral products or

deposits extracted from the mine or mining property during the period covered by the statement.

4. The name and location of the smelter, mill or reduction works to which such ore has been shipped or sold during the period covered by the statement and such other information as the state *department of revenue* may require.

5. The gross yield of such ores, mineral products or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead or zinc, or other commercially valuable constituents of said ores or mineral products or deposits, measured by standard units of measurement during the period covered by the statement.

6. The gross value of product in dollars and cents."

Section 103. Section 84-2006, R.C.M. 1947, is amended to read as follows:

"84-2006. **Computation and notice of tax.** The state *department of revenue* shall examine each such statement and return filed and determine and ascertain therefrom, and compute and assess the amount of the license tax to be paid by the person making and filing the same, and shall, not later than the first day of June, certify to the state treasurer the name of each person subject to the payment of license taxes under the provisions of this act, the amount thereof to be paid by such person. The said *department* shall at the same time mail to each person making and filing such statement and return, a written notice of the amount of the license tax to be paid by each, respectively, that the same is due and payable to the state treasurer, and that it will become delinquent at five o'clock p.m. on the thirtieth day of June, immediately following, and that if the same becomes delinquent a penalty of ten per centum will be added thereto, and that the whole amount of such license tax, with penalty added, will bear interest at the rate of twelve per centum per annum from the date the same becomes delinquent until paid. If any such person, has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the state *department of revenue* shall compute the gross value of such portion of said mine's product, so sold or disposed of substantially below the market price as aforesaid, which gross value shall be based upon the quotations of the price of such mine's product in New York City, at the time such portion of the product was so sold or otherwise disposed of as evidenced by some established authority or market report, such as the Engineering and Mining Journal, of New York, or some other standard publication, giving the market

reports for the year covered by such statement. Should there be no quotation covering any particular product, then the state *department of revenue* shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such an manner as may seem to be equitable."

Section 104. Section 84-2008, R.C.M. 1947, is amended to read as follows:

"84-2008. **Procedure in case of failure to file statement.** If any person shall fail, refuse or neglect to make and file such statement and return within the time prescribed, the state *department of revenue*, shall, immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state, and from any other information which the *department* may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the license tax is to be paid, and license issued, and shall make and file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the license taxes due from, and to be paid by such person, and shall immediately certify the same to the state treasurer, and give notice to such person in the same manner as though such statement had been filed within time, and the state shall proceed to collect such license tax, adding thereto and collecting therewith, if the same is delinquent, the same penalty and interest as provided for herein for other delinquencies."

Section 105. Section 84-2011, R.C.M. 1947, is amended to read as follows:

"84-2011. **Lien of tax.** The license tax assessed against any person under this act, together with all penalties and interest thereon, shall be a lien upon any and all property owned by such person within this state and used by such person in connection with such business, which lien shall attach to such property on the date when the license tax is certified to the state treasurer by the state *department of revenue* and such lien may be enforced in the name of the state of Montana, in the same manner as other liens are enforced at law."

Section 106. Section 84-2012, R.C.M. 1947, is amended to read as follows:

"84-2012. **License.** Whenever any license tax is paid under

the provisions of this act the state *department of revenue* shall issue to the person paying the same a license authorizing such person to engage in and carry on such business until the first day of January immediately following the year for which such license tax is paid and such license issued."

Section 107. Section 84-2013, R.C.M. 1947, is amended to read as follows:

"84-2013. **Commencing business.** If any person shall, after the first day of January of any year, engage in or commence the carrying on of the business of working or operating a mine or mining property in this state, from which any merchantable metal, precious, and semiprecious gems and stones are extracted and produced, such person, must, within sixty days after so engaging in or commencing to carry on such business, notify both the state *department of revenue* and the state treasurer of such fact."

Section 108. Section 84-2016, R.C.M. 1947, is amended to read as follows:

"84-2016. **Dissolved corporations to make returns on operation of mines and pay metals mines tax due.** Every corporation which shall be dissolved or cease to do business in this state during any taxpaying year shall make all statements, reports and returns required by law to be made with reference to the carrying on of the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semiprecious gems or stones, are produced and pay the tax due for such period as it carried on such business, on or before the date of such dissolution or cessation of business. The state *department of revenue* may grant a reasonable extension of time for filing returns upon good cause shown therefor."

Section 109. Section 84-2104, R.C.M. 1947, is amended to read as follows:

"84-2104. **Certificate to be filed with department—time for filing—contents of certificate.** Each and every person engaged in any such business in the state of Montana at the time when this act becomes effective must not, later than the thirtieth day of April, 1933, and every person who shall engage in any such business at any time after the date when this act becomes effective, immediately, upon engaging in any such business, file with the state *department of revenue* a certificate and statement, on forms prescribed by the state *department of revenue*, which shall contain the name under which such person is engaged in carrying on such business in this state, giving the place or places of business and the location of the well or wells, plant or property, owned, leased, con-

trolled or operated by such person in such business; the name and address of the managing agent in this state if an association, corporation, joint-stock company or syndicate, or if a firm or copartnership, the names and addresses of the persons composing the same, of an association, joint-stock company, corporation or syndicate, the laws of the state under which organized, its principal place of business, and the names and addresses of its principal officers; and such other information as the *department* may deem necessary."

Section 110. Section 84-2105, R.C.M. 1947, is amended to read as follows:

"84-2105. **Records to be kept as required by department.** Every such person shall keep a record, in such form as the state *department of revenue* may require, of all natural gas extracted or produced, transported or carried, sold, furnished or delivered by such persons in this state and such records shall at all times during the business hours of the day, be subject to inspection of the state *department of revenue*, its members, agents or employees."

Section 111. Section 84-2106, R.C.M. 1947, is amended to read as follows:

"84-2106. **Statement of distributed gas—payment of tax—state treasurer's duty—examination and computing of tax by department—adjustment of excess payment or deficit.** (1) Each and every person must, within thirty (30) days after the quarterly period ending March 31, 1933, and within thirty (30) days after the end of each following quarterly period, make out, in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the quantity of merchantable or marketable gas produced or extracted, transported or carried, sold, furnished or delivered by such person in the state of Montana during each month of each quarterly period and during the whole of said quarterly period, together with total amount due the state as license tax for such quarterly period; and must, within such thirty (30) days, and at the same time such statement is delivered to the state treasurer, pay to the state treasurer the amount of the license tax shown by such statement to be due to the state of Montana for the quarterly period for which such statement is made; such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer or managing agent in this state of the association, corporation, joint-stock company or syndicate making the same. Any such person engaged in or carrying on such business at more than one (1) place in this state, or owning, controlling or operating more than one (1) natural gas well or plant for the distribution of natural gas in this state, may include all thereof in one (1) statement. The state treasurer shall receive and file all such statements and collect

and receive from such person making and filing a statement with him, the amount of tax payable by such person, if any, as the same shall appear from the face of the statement. The state treasurer shall endorse on each statement as soon as the same is received by him, the date when so received, and the name and post-office address of the person from whom received; and the amount of tax, if any, paid by such person; and he must number such statement consecutively, beginning with number one (1) for each year followed by the year.

(2) The state treasurer shall keep a book in such form as shall be approved by the state *department of revenue*, in which he shall enter such statement filed with him in the order in which received and filed, the number thereof, date of filing, name of person making the return and the amount of tax, if any, paid by such person, which book shall be designated "state treasurer's record of natural gas license tax." The state treasurer shall within ten (10) days after the end of each month deliver over to the state *department of revenue* all statements filed with him and not already delivered to said *department*, and such statements shall then be filed in the office of, and become a part of the records of the state *department of revenue*.

(3) It shall be the duty of the state *department of revenue* to examine each of such statements and compute the taxes thereon, and the amount so computed by the *department* shall be the taxes imposed, assessed against and payable by the person making the statement for the quarterly period for which the statement is filed. If the tax found to be due shall be greater than the amount paid, the excess shall be paid by the taxpayer to the state *department of revenue* within ten (10) days after written notice of the amount of the deficiency shall be mailed by the state *department of revenue* to such taxpayer. Provided, that if the tax imposed shall be less than the amount paid, the difference must be refunded to the person making such payment."

Section 112. Section 84-2108, R.C.M. 1947, is amended to read as follows:

"84-2108. *Department to determine tax if no statement filed—penalty and interest—collection of tax.* If any such person shall fail, neglect or refuse to file any statement required by the provisions of this act within the time therein required, the state *department of revenue* shall immediately after such time has expired, proceed to inform itself, as best it may, regarding the quantity of natural gas extracted and produced, transported or carried, sold, furnished or delivered by such person in this state during such quarterly period and during each month thereof, and shall determine and fix the amount of the license tax due the state from such person

for such quarterly period and shall make out a statement, in duplicate, showing the same and shall add to the amount of such license tax a penalty of twenty-five (25) per cent thereof and deliver one (1) of such statements to the state treasurer, who shall proceed to collect the amount of such license tax, with penalty added thereto, and the interest on the whole thereof at the rate of twelve (12) per cent per annum from the date of making such statement by the state *department of revenue*, until paid.

Upon the request of the state treasurer, it shall be the duty of the attorney general to commence and prosecute to final determination, in any court of competent jurisdiction, an action at law for the collection of the same."

Section 113. Section 84-2203, R.C.M. 1947, is amended to read as follows:

"84-2203. *Payment of tax.* Such license tax shall be paid in quarterly installments for the quarterly periods ending respectively March 31, June 30, September 30 and December 31, of each year, and the amount of the license tax for each quarterly period shall be paid to the state *department of revenue* within thirty (30) days after the end of each quarterly period."

Section 114. Section 84-2204, R.C.M. 1947, is amended to read as follows:

"84-2204. *Determination of gross value of product.* The total gross value of all petroleum, and other mineral or crude oil produced each year shall be determined by taking the total number of barrels thereof produced each month during such year at the average value at the mouth of the well during the month the same is produced, as determined by the state *department of revenue*; provided, however, that in computing the total number of barrels of petroleum, and other mineral or crude oil produced, there shall be deducted therefrom so much thereof as is used by such person in connection with the operation of the well from which said oil is produced or for pumping said petroleum or other mineral or crude oil from the said well to a tank or pipeline."

Section 115. Section 84-2205, R.C.M. 1947, is amended to read as follows:

"84-2205. *Producers to file reports.* Each and every person engaged in such business in the state of Montana at the date when this act becomes effective, must, not later than the thirtieth day of April, 1923, and every person who shall engage in such business at any time after the date when this act becomes effective, must, immediately upon engaging in such business, file with the state *department of revenue*, a certificate and statement, on forms pre-



scribed by the state *department of revenue*, which shall contain the name under which such person is engaging in and carrying on such business in this state, giving the place or places of business and location of the well or wells owned, leased, controlled or operated by such person; the name and address of the managing agent in this state, if an association, corporation, joint-stock company, or syndicate, or if a firm or copartnership, the names and addresses of the persons composing the same; if an association, joint-stock company, corporation or syndicate, under the laws of what state organized, its principal place of business, and the names and addresses of its principal officers; and such other information as the *department* may deem necessary."

Section 116. Section 84-2206, R.C.M. 1947, is amended to read as follows:

"84-2206. **Record of product—carriers to furnish data.** Every such person shall keep a record in such form as the state *department of revenue* may require, of all petroleum and other mineral or crude oil extracted or produced by such person in this state, and such records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its members, agents, or employees. It shall be the duty of railroad companies, pipeline and transportation companies carrying crude or mineral oil, to furnish to the state *department of revenue*, whenever requested so to do, all data relative to the shipment of said products, that may be required to properly enforce the provisions of this act. The failure of any railroad company, pipeline, and transportation companies to comply with the provisions of this section shall make such companies liable to a penalty of one hundred dollars (\$100.00) for each day it shall fail to furnish such statement."

Section 117. Section 84-2207, R.C.M. 1947, is amended to read as follows:

"84-2207. **Statement to accompany payment—records—collection of tax—refunds.** (1) Each and every person must, within thirty days after the quarter ending March 31, 1923, and within thirty days after the end of each following quarter, make out, in duplicate, on forms prescribed by the state *department of revenue*, and deliver to the state treasurer, a statement showing the total number of barrels of merchantable or marketable petroleum, and other mineral or crude oil produced or extracted by such person in the state of Montana during each month of such quarter and during the whole quarter, the average value thereof during each month and the total value thereof for the whole quarter, together with the total amount due to the state as license taxes for such quarter; and must, within such thirty days, and at the same time such statement is delivered to the state treasurer, pay to the state treasurer the

amount of the license taxes shown by such statement to be due to the state of Montana for the quarter for which such statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company or syndicate making the same. Any such person engaged in carrying on such business at more than one place in this state, or owning, leasing, controlling, or operating more than one oil well in this state, may include all thereof in one statement. The state treasurer shall receive and file all such statements and collect and receive from such person making and filing a statement with him the amount of tax payable by such person, if any, as the same shall appear from the face of the statement.

(2) The state treasurer shall endorse on each statement as soon as the same is received by him, the date when so received, the name and post-office address of the person from whom received; and the amount of tax, if any, paid by such person; and he must number such statement consecutively, beginning with number one (1) for each year followed by the year. The state treasurer shall keep a book in such form as shall be approved by the state *department of revenue*, in which he shall enter each statement filed with him in the order in which received and filed, the number thereof, date of filing, name of person making the return, and the amount of tax, if any, paid by such person, which book shall be designated "state treasurer's record of oil production license tax."

(3) The state treasurer shall within ten days after the end of each month deliver over to the state *department of revenue* all statements filed with him and not already delivered to said board, and such statements shall then be filed in the office of, and become a part of the records of the state *department of revenue*. It shall be the duty of the state *department of revenue* to examine each of such statements and compute the taxes thereon, and the amount so computed by the *department* shall be the taxes imposed, assessed against and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the tax found to be due shall be greater than the amount paid, the excess shall be paid by the taxpayer to the state *department of revenue* within ten days after written notice of the amount of the deficiency shall be mailed by the *department of revenue* to such taxpayer. Provided, that if the tax imposed shall be less than the amount paid, the difference must be refunded to the person making such payment."

Section 118. Section 84-2209, R.C.M. 1947, is amended to read as follows:

"84-2209. **Procedure to compute and collect tax in absence of statement.** If any such person shall fail, neglect or refuse to file

any statement required by section 84-2207, within the time therein required, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the number of barrels of petroleum and other mineral or crude oil extracted and produced by such person in this state during such quarter, and during each month thereof, and the average value thereof during each such month, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter and shall make out a statement, in duplicate, showing the same, and shall add to the amount of such license taxes a penalty of twenty-five per cent thereof, and deliver one of such statements to the state treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent, per annum from the date of the making of such statement by the state *department of revenue* until paid. Upon request of the state treasurer, it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the same. The twenty-five per cent penalty herein provided may be waived by the state *department of revenue* if reasonable cause for the failure and neglect to file the statement required by section 84-2207 is provided to the said *department*."

Section 119. Section 84-2301, R.C.M. 1947, is amended to read as follows:

"84-2301. **Definitions.** The term "*department*" when used in this act shall mean the state *department of revenue*.

Any person, persons, copartnership, joint-stock company, association, or corporation (not being a railroad company or a lessee of a railroad company) wherever organized or incorporated, owning and operating, or operating any cars known as dining, buffet, chair, parlor, palace or sleeping cars, which are used upon railroads within this state, unless the ownership of such cars be identical with that of the lines of railroads on which they are operated, shall be deemed a sleeping car company for the purposes of this act."

Section 120. Section 84-2302, R.C.M. 1947, is amended to read as follows:

"84-2302. **Reports.** Every sleeping car company shall annually on or before the first day of March and in such forms and covering such period as the state *department of revenue* shall prescribe, make and file with it a statement verified by the oath of the person, agent or officer making the same, setting forth the facts called for. Such report shall contain:

- (1) The name of the company.

(2) The nature of the company, whether a person, agent, trustee, lessee, receiver, or other person, or a joint-stock company, partnership, association, or corporation.

(3) The location of its principal office, and under the laws of what state or country organized, and when.

(4) The name and address of the president, secretary, auditor, treasurer and superintendent or general manager.

(5) The name and address of its chief officer or managing agent in Montana.

(6) Its capital stock:

(a) The amount authorized.

(b) The amount issued.

(c) The amount of capital stock invested in its sleeping car business.

(7) The number of shares of stock:

(a) Outstanding.

(b) Not issued.

(c) Treasury; and whether common or preferred.

(8) The amount of the bonds outstanding; when issued; when due, and the rate of interest of each issue.

(9) The par market value of the stocks and bonds issued and outstanding.

(10) The whole length and the names of railroad lines over which its cars were transported in the state of Montana.

(11) The total car mileage and the car mileage within this state.

(12) The gross and net earnings during the year.

(13) Such other facts and information as such company or the state *department of revenue* may deem material upon the question of the true and full value of said property within this state. *The department* shall furnish forms upon which to make such reports."

Section 121. Section 84-2303, R.C.M. 1947, is amended to read as follows:

"84-2303. **Assessment.** The state *department of revenue* shall carefully consider all reports made pursuant to section 84-2302 and all other facts and evidence collected and available, and shall

fix the valuation of the property of sleeping car companies operating in the state for the purpose of levying and collecting license taxes thereon, as hereinafter provided."

Section 122. Section 84-2304, R.C.M. 1947, is amended to read as follows:

"84-2304. **Method of determining valuation.** (1) It shall find, ascertain, and determine the actual value in money of the entire amount of capital stock of each such company invested in its sleeping car business, and when the value of the capital stock cannot be reliably ascertained it shall find, ascertain and determine the value of the entire property used in said business. From the amount so obtained, it shall deduct the actual value of its real estate situate without this state not used in said business, and also the actual value of all its personal property, not used in said business. The remainder shall be taken and considered as the actual value of the capital stock of such company invested or used in its business.

(2) The *department* shall then divide the amount so obtained by the total car mileage on railroads over which the company did business to obtain the value per car mile, and shall then multiply the value per car mile thus obtained by the total number of car miles within this state. The result shall be taken and considered as the actual value of the property of such company subject to the license tax in this state, subject to review as provided in section 84-2305."

Section 123. Section 84-2305, R.C.M. 1947, is amended to read as follows:

"84-2305. **Notice of hearing concerning valuation—right to appear and be heard.** The *department* shall thereupon give notice to the officer of such company attesting its report of the time and place such company may appear and be heard in respect to such valuation to be made upon its property. After such hearing the *department* may make such changes in its valuation as shall appear just and reasonable."

Section 124. Section 84-2306, R.C.M. 1947, is amended to read as follows:

"84-2306. **License tax—amount—levy—notice—payment.** The *department* shall thereupon levy a license tax upon the property of such sleeping car company at the rate of one and one-half per cent (1½%) on the valuation thus found by it for the use of the state, and the *department* shall certify such assessment and levy to the state treasurer, who shall thereupon, by registered letter, notify the officer attesting the report of such company, of the amount

of the assessment, the rate of levy and the amount of the tax; and such company shall have thirty days after the mailing of such notice within which to pay said tax to the state treasurer. And such tax when paid shall be turned into the general fund of the state treasury."

Section 125. Section 84-2307, R.C.M. 1947, is amended to read as follows:

"84-2307. **Failure to report—nonpayment—action for collection.**

(1) If any sleeping car company shall fail to make the report required of it by this act, the *department* shall proceed upon the best information it may be able to obtain to fix the valuation against such company and shall notify it by letter of the action taken in that behalf. Thereupon the company so notified may appear and be heard as above provided.

(2) All taxes remaining unpaid after notice from the state treasurer, as above provided, shall draw interest at the rate of fifteen per centum per annum after they are due, and upon such failure to pay, the attorney general shall proceed by action in the name of the state against such company to collect the same, together with interest and the cost of the suit.

(3) Any such company claiming to be aggrieved by the levy of a license tax upon its property, may, within six months from the payment of the tax, and not thereafter, bring and maintain an action against the state in the district court of Lewis and Clark county to recover such part of the tax so paid as shall exceed the amount the company should have paid. The state may be served with the summons in such action by delivering a copy thereof to the attorney general or leaving it at his office in the capitol with one of his assistants.

(4) But no such company shall be permitted to contest the validity of any tax assessed and levied against it, unless at or before the time of serving its complaint or answer, as the case may be, it shall deposit with the state treasurer the amount of such tax, together with interest thereon at the rate of fifteen per cent per annum as above provided. In case the amount of the tax justly and equitably due from such company shall be finally determined to be less than the amount so paid, the excess shall be refunded to such company by direction of the court by the state treasurer."

Section 126. Section 84-2308, R.C.M. 1947, is amended to read as follows:

"84-2308. **Estoppel—excusing failure to file report.** (1) If any company described in section 84-2301 or its officers or agents

shall unreasonably refuse or neglect to make any report required by law or by the said *department*, or shall unreasonably refuse or neglect to answer any material question, or to permit an inspection of its records, books, accounts or papers when requested by said board, it shall be estopped to question or impeach the action or determination of the *department*, except upon satisfactory proof of fraud or mistake injurious to it.

(2) No such company shall be allowed in any action or proceeding to question the amount or valuation of its property and franchises as assessed by the *department*, unless it shall have made and filed with the *department* a full and complete report of the facts and information prescribed by law, and called for by the *department*; provided, that the refusal or neglect of such company to file its report in time may, on verified petition and for good cause shown, be excused by the *department* on condition that such company make a full and complete report disclosing all facts and information required of it within fifteen days after leave is given to file such report, and shall appear before the *department* and make full disclosure of all property liable to assessment and taxation under this act."

Section 127. Section 84-2309, R.C.M. 1947, is amended to read as follows:

"84-2309. **First imposition of tax.** The license tax shall be first imposed and paid for the whole calendar year 1923, and shall be based upon the reports as prescribed in section 84-2302 for the year 1922, and such report shall be made to the *department* by April first, 1923."

Section 128. Section 84-2401, R.C.M. 1947, is amended to read as follows:

"84-2401. **Store license from department of revenue required.** That it shall be unlawful for any person, firm, corporation, association or copartnership, either foreign or domestic, to open, establish, operate or maintain any store or stores in this state without first having obtained a license to do so from the state *department of revenue*, as hereinafter provided."

Section 129. Section 84-2402, R.C.M. 1947, is amended to read as follows:

"84-2402. **Application and fee for license.** Any person, firm, corporation, association, copartnership or group desiring to open, establish, operate or maintain a store in the state of Montana prior to September first, of that calendar year shall apply to the state *department of revenue* for license to do so. The application shall be made upon a form which shall be prescribed and furnished

by the state *department of revenue*, and shall set forth the name of the owner, manager, trustee, lessee, stockholders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the state *department of revenue* may require.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open or establish each such store.

Each such application shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407."

Section 130. Section 84-2403, R.C.M. 1947, is amended to read as follows:

"84-2403. **Department to consider application—issuance of license.** As soon as practicable after the receipt of any such application, the state *department of revenue* shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the state *department of revenue* shall find that such application is not in proper form and does not contain the necessary and requisite information, it shall return such application for correction.

If an application is found to be satisfactory, and if the filing and license fee, as herein prescribed, shall have been paid, the state *department of revenue* shall issue to the applicant a license for each store for which an application for a license shall have been made.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license was issued."

Section 131. Section 84-2404, R.C.M. 1947, is amended to read as follows:

"84-2404. **Expiration and renewal of licenses.** All licenses shall be so issued so as to expire upon the thirty-first day of December of each calendar year. On or before the thirty-first day of December of each calendar year, every firm, person, corporation, association, copartnership having a license, shall apply to the state *department of revenue* for a renewal license for the calendar year next ensuing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the state *department of revenue*.

Each such application for a renewal license shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407.

All licenses shall lapse on the thirty-first day of December of the year for which the license was issued, and if, by such thirty-first

day of December, an application for a renewal license for the calendar year next ensuing has not been made, the fee charged shall be double the rate prescribed in sections 84-2405, 84-2406 and 84-2407."

Section 132. Section 84-2412, R.C.M. 1947, is amended to read as follows:

"84-2412. **Employment of help—disposal of license money.** The state *department of revenue* is hereby authorized to employ such clerical and field assistance as may be found necessary to carry out and to administer the provisions of this act. All money collected under the provisions of this act shall be paid into the state treasury, to the credit of the general fund."

Section 133. Section 84-2502, R.C.M. 1947, is amended to read as follows:

"84-2502. **Statement of gross income—contents—payment to accompany.** Each and every person, association or corporation engaged in carrying on such business in this state, shall, within thirty (30) days after the end of each quarter, beginning with the quarter ending March 31, 1934, make out in duplicate and file with the state *department of revenue*, under oath, a statement in such form as the state *department of revenue* may require and prescribe, showing the total gross income of such person, association or corporation derived from business within this state including the transmission of telegraph messages originating and terminating within this state, but excluding therefrom the gross income derived from the transmission of telegraph messages passing through this state but both originating and terminating outside of this state and from those originating outside of, but terminating within, this state and from those originating within, but terminating outside of, this state during the preceding quarter, and containing such other information as the state *department of revenue* may require; and shall accompany such statement with the payment to the state *department of revenue* of a license tax in amount equal to two per cent (2%) of such gross income."

Section 134. Section 84-2503, R.C.M. 1947, is amended to read as follows:

"84-2503. **Rules and regulations for enforcement may be adopted by department.** The state *department of revenue* shall have the power, and it shall be its duty from time to time to adopt, publish and enforce such rules and regulations not inconsistent herewith as it may deem requisite for the purpose of carrying out the provisions of this act."

Section 135. Section 84-2505, R.C.M. 1947, is amended to read as follows:

"84-2505. **Records to be kept as required by department.** Each person, association or corporation shall keep a record in such form as the state *department of revenue* shall require showing the total gross receipts, as herein described, and such other information as the state *department of revenue* may require."

Section 136. Section 84-2507, R.C.M. 1947, is amended to read as follows:

"84-2507. **Department to determine tax in case no statement filed—penalty and interest—collection of tax—perfection and enforcement of tax lien.** (1) If any person, association or corporation subject to the payment of such license tax shall fail, neglect or refuse to make any statement required by this act, or shall fail to make payment of such license tax within the time herein provided, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such statement and from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the amount of the license tax due the state from such delinquent person, association or corporation, and shall add thereto a penalty of five per cent (5%) thereof for the first failure, neglect or refusal; ten per cent (10%) for the second; fifteen percent (15%) for the third; and twenty-five per cent (25%) for the fourth, and each subsequent failure, neglect and refusal, which shall be in addition to the ten per cent (10%) penalty hereinbefore provided for nonpayment of such license tax within the time herein provided. Said license tax and the penalties added thereto shall bear interest at the rate of one per cent (1%) per month from the date such statements should have been made and said license tax paid. The state treasurer of the state of Montana shall then proceed to collect such license tax with penalties and interest. Upon the request of the state treasurer it shall be the duty of the attorney general to commence and prosecute to final determination, in any court of competent jurisdiction, an action to collect such license tax.

(2) All license taxes due from any person, association or corporation under the provisions of this act, together with all penalties and interest thereon, shall be a lien upon any and all property of such person, association or corporation upon the filing by the state *department of revenue*, of a duplicate copy of the statement so made by the state *department of revenue*, or a certified copy of any statement filed with said *department* in the office of the county clerk of the county where such property is situated, which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced in the name of the state of Montana in the same manner as other liens are enforced

by law. No action shall be maintained to enjoin the collection of such license tax or any part thereof.

(3) When the amount due the state is paid in full and before the entry of foreclosure decree, the state treasurer shall release the said lien by filing, in the office of the county clerk wherein is filed the said lien, a written release thereof. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of said lien a part of said property to enable the person, association or corporation to mortgage, sell or otherwise dispose of the same in order to procure funds with which to pay said license taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to said lien to insure the payment of the whole of said unpaid license taxes, penalty and interest."

Section 137. Section 84-2508, R.C.M. 1947, is amended to read as follows:

"84-2508. **Books and records to be open to inspection by board.** The books and records of every person, association or corporation shall be open and subject to inspection by the state *department of revenue* or any of its employees or assistants during business hours so far as may be necessary to ascertain the amount of license tax due."

Section 138. Section 84-2602, R.C.M. 1947, is amended to read as follows:

"84-2602. **Statement and payment on gross income—certain business excluded.** Each and every person, association or corporation liable to tax under this act engaged in carrying on such telephone business in this state shall, within sixty (60) days after the end of each quarter, beginning with the quarter ending June 30, 1969, make out in duplicate and file with the state *department of revenue*, under oath, a statement in such form as the state *department of revenue* may require and prescribe, showing the total gross income of such person, association or corporation derived from the telephone business within this state including the transmission of telephone messages originating and terminating within this state, but excluding therefrom the gross income derived from the transmission of telephone messages passing through this state but both originating and terminating outside of this state and from those originating outside of, but terminating within this state and from those originating within but terminating outside of this state during the preceding quarter, and containing such other information as the state *department of revenue* may require; and shall accompany such statement with the payment to the state *department of revenue*

of a license tax in the amount equal to one and seven hundred twenty-five thousandths per cent (1.725%)."

Section 139. Section 84-2603, R.C.M. 1947, is amended to read as follows:

"84-2603. **Department to adopt rules.** The state *department of revenue* shall have the power, and it shall be its duty from time to time to adopt, publish and enforce such rules and regulations not inconsistent herewith as it may deem requisite for the purpose of carrying out the provisions of this act."

Section 140. Section 84-2605, R.C.M. 1947, is amended to read as follows:

"84-2605. **Taxpayer to keep records.** Each person, association or corporation liable to tax under this act shall keep a record in such form as the state *department of revenue* shall require showing the total gross receipts, as herein described, and such other information as the state *department of revenue* may require."

Section 141. Section 84-2607, R.C.M. 1947, is amended to read as follows:

"84-2607. **Department to levy tax on failure of taxpayer to make statement.** (1) If any person, association or corporation subject to the payment of such license tax shall fail, neglect or refuse to make any statement required by this act, or shall fail to make payment of such license tax within the time herein provided, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such statement and from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the amount of the license tax due the state from such delinquent person, association or corporation, and shall add thereto a penalty of five per cent (5%) thereof for the first failure, neglect or refusal; ten per cent (10%) for the second; fifteen per cent (15%) for the third; and twenty-five per cent (25%) for the fourth, and each subsequent failure, neglect and refusal, which shall be in addition to the ten per cent (10%) penalty hereinbefore provided for nonpayment of such license tax within the time herein provided. Said license tax and the penalties added thereto shall bear interest at the rate of one per cent (1%) per month from the date such statements should have been made and said license tax paid. The state treasurer of the state of Montana shall then proceed to collect such license tax with penalties and interest. Upon the request of the state treasurer it shall be the duty of the attorney general to commence and prosecute to final determination, in any court of competent jurisdiction, an action to collect such license tax.

(2) All license taxes due from any person, association or corporation under the provisions of this act, together with all penalties and interest thereon, shall be a lien upon any and all property of such person, association or corporation upon the filing by the state *department of revenue*, of a duplicate copy of the statement so made by the state *department of revenue*, or a certified copy of any statement filed with said *department* in the office of the county clerk of the county where such property is situated, which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced by law. No action shall be maintained to enjoin the collection of such license tax or any part thereof. When the amount due the state is paid in full and before the entry of foreclosure decree, the state treasurer shall release the said lien by filing, in the office of the county clerk wherein is filed the said lien, a written release thereof. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of said lien a part of said property to enable the person, association or corporation to mortgage, sell or otherwise dispose of the same in order to procure funds with which to pay said license taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to said lien to insure the payment of the whole of said unpaid license taxes, penalty and interest."

Section 142. Section 84-2608, R.C.M. 1947, is amended to read as follows:

"84-2608. **Books of taxpayer open to inspection.** The books and records of every person, association or corporation shall be open and subject to inspection by the state *department of revenue* or any of its employees or assistants during business hours so far as may be necessary to ascertain the amount of license tax due."

Section 143. Section 84-3503, R.C.M. 1947, is amended to read as follows:

"84-3503. **State department of revenue as registrar.** The state *department of revenue* of the state of Montana is hereby constituted the registrar for the purpose of this act, and is empowered to employ such assistance and to procure such records, supplies and equipment as may be necessary to carry out its provisions."

Section 144. Section 84-3513, R.C.M. 1947, is amended to read as follows:

"84-3513. **Retention of contract payments to pay assessments—transmittal to department of revenue—contractor to pay when funds not retained—refunds.** The state, county, city or any agency or

department thereof, as described in section 84-3501 (b), for whom the contractor is performing public work, shall withhold, in addition to other amounts withheld as provided by law, one per cent (1%) of all payments due the contractor and shall transmit such moneys to the state *department of revenue*. In the event that the one per cent (1%) of gross receipts is not withheld as provided, the contractor shall make payment of these amounts to the state *department of revenue* within thirty (30) days after the date on which the contractor receives each increment of payment for work performed by the contractor. Any overpayment of the one per cent (1%) of gross receipts withheld, or paid by any contractor hereunder, shall be refunded by the state *department of revenue* at the end of the income year upon written application therefor."

Section 145. Section 84-3515, R.C.M. 1947, is amended to read as follows:

"84-3515. **State department of revenue to establish rules and regulations.** The state *department of revenue* shall establish rules and regulations necessary for the effective implementation of the provisions of this act, including, but not limited to, requiring public contractors to file a contractor's return showing public works contracts performed during a calendar year."

Section 146. Section 84-3516, R.C.M. 1947, is amended to read as follows:

"84-3516. **Failure to file contractor's license—penalty.** A person failing to file a contractor's license return as provided and required by the state *department of revenue*, upon conviction, shall be fined not less than one thousand dollars (\$1,000) or more than ten thousand dollars (\$10,000)."

Section 147. Section 84-3803, R.C.M. 1947, is amended to read as follows:

"84-3803. **Rate of taxation fixed by state department.** The state *department of revenue* must, for state purposes, for each fiscal year fix an ad valorem rate of taxation upon each one hundred dollars of taxable property of the state, after allowing twelve per cent for delinquencies in the taxes and for costs of collection thereof, as will raise a sufficient amount to meet the levy of the legislative assembly for each fiscal year."

Section 148. Section 84-3806, R.C.M. 1947, is amended to read as follows:

"84-3806. **Failure of county commissioners to levy.** The action of the state *department of revenue* in fixing the rate of taxation for state purposes is, in the absence of action by the board of



county commissioners, a valid levy of the rate so fixed, and imposes upon the county commissioners, and all other officers charged with the performance of any duties under the revenue law, the same obligations as if the board of county commissioners had made the levy at the proper time."

Section 149. Section 84-4003, R.C.M. 1947, is amended to read as follows:

"84-4003. **Statement to be transmitted to state auditor and state department of revenue.** The county clerk must, as soon as such statements are prepared, transmit by mail, one to the state auditor and one to the state *department of revenue*."

Section 150. Section 84-4116, R.C.M. 1947, is amended to read as follows:

"84-4116. **Statement to be transmitted to the state department of revenue by the county clerk.** Within ten days after each settlement the county clerk must transmit by mail a statement to the state board of equalization, in such form as it may require, of each kind of property assessed and delinquent, and the total amount of delinquent taxes."

Section 151. Section 84-4502, R.C.M. 1947, is amended to read as follows:

"84-4502. **Payment of taxes under protest—action to recover.**

(1) In all cases of levy of taxes, licenses or other demands for public revenue which are deemed unlawful by the party whose property is thus taxed, or from whom such tax or license is demanded or enforced, such party may before such tax or license becomes delinquent pay under written protest such tax or license, or any part thereof, deemed unlawful, to the officers designated and authorized to collect the same, specifying the grounds of protest; and thereupon the party so paying, or his legal representatives, may bring an action in any court of competent jurisdiction against the officers to whom said license or tax was paid, or against the county or municipality in whose behalf the same was collected, and the state *department of revenue*, which shall be served with summons and copy of the complaint, to recover such tax or license, or any portion thereof, paid under protest; provided, that any action instituted to recover any license or tax paid under protest shall be commenced and summons served within sixty (60) days after the date of payment of the same; provided further, that when any such license or tax is payable in installments the first installment, or so much thereof as may be deemed unlawful, may be so paid under written protest and suit commenced and summons served to recover the same within the time herein prescribed, and

if any subsequent installment of such license or tax shall become due or payable before the final determination of the suit commenced to recover the first installment, or portion thereof, so paid under protest, then such subsequent installment, or portion thereof deemed unlawful, may also be paid under written protest, and no suit or action need be commenced to recover the same, but the determination of the suit or action commenced to recover the first installment, or portion thereof, paid under protest, shall determine the right of the party paying such subsequent installment to have the same, or any part thereof refunded to him. All such licenses and taxes, when so paid under protest, shall be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as protest fund, and no part thereof shall be paid over to any officer, or placed in any other fund or used for any purpose whatever, but the whole thereof shall be retained in such protest fund until the final determination of any suit or action to recover the same.

(2) If no action is commenced within the time herein specified, or if such action be commenced and finally determined in favor of the county or municipality, or treasurer thereof, the amount of such license or tax shall be taken from such protest fund and deposited to the credit of the fund or funds to which the same property belongs, but if such action is finally determined adversely to such county or municipality, or the treasurer thereof, then the treasurer shall, upon receiving a certified copy of the final judgment in said action, refund the amount of such license or tax, with costs of suit without interest, to the person in whose favor such judgment is rendered; provided, that if such action was commenced for the purpose of recovering the first installment, or any portion thereof, of any such license or tax, and any subsequent installment thereof, has been paid under protest, as herein provided, then the county treasurer shall, at the time of refunding the amount of such first installment required by such judgment also refund such portion of any subsequent installment as the person holding such judgment is entitled to recover, without interest."

Section 152. Section 84-4818, R.C.M. 1947, is amended to read as follows:

"84-4818. **Definitions.** The following words and phrases, when used in this act, shall have the following definitions:

(a) Freight line companies. Any person, or persons, joint-stock company, association, or corporation, wherever organized or incorporated, not being the owner, lessee, or operator of any railroad, engaged in the business of operating cars, or engaged in the business of furnishing or leasing cars, not otherwise listed



for taxation in Montana, for the transportation of freight (whether said cars be owned by such company or any other person or company) over any railway line or lines, in whole or in part within this state, such line or lines not being owned, leased, or operated by such company, whether such cars be termed flat, coal, ore, tank, stock, gondola, furniture, or refrigerator cars, or by some other name.

(b) Board. The term "*department*" shall mean the state *department of revenue* of the state of Montana.

(c) Earnings. The terms "gross earnings" or "total gross earnings" are hereby declared to be and shall be construed to mean all earnings on business beginning and ending within this state, and a proportion, based upon the proportion of mileage within the state to the entire mileage over which such business is done, of all earnings on interstate business passing through, into, or out of this state."

Section 153. Section 84-4820, R.C.M. 1947, is amended to read as follows:

**"84-4820. Railroad companies to withhold tax, file statements annually and remit to state—receipts—investigations—ad valorem tax basis.** Every railroad company so using or leasing said cars, upon payment therefor to such company shall withhold from such payment five and one-half per cent ( $5\frac{1}{2}\%$ ) of as much thereof as shall constitute gross earnings of such freight line company within this state. On or before March 1, 1970, such railroad company shall make and file with the *department* a consolidated statement in a form to be prescribed by the *department of revenue*, showing the amount of such payments for the next preceding calendar year ending December 31, 1969, and the amounts so withheld and due the state of Montana. A like report shall be made on or before March 1 of each year thereafter; provided, however, that for good cause the *department* may grant a reasonable extension for filing, but not to exceed thirty (30) days. Such railroad company at the time of filing such statement shall remit the amounts so withheld and due the state of Montana. Upon receipt of such payment, the *department* shall issue its receipt, in triplicate, one (1) copy of which shall be mailed to such railroad company, one (1) to the freight line company for which such tax is paid, and one (1) to be retained in the office of the state *department of revenue*. The mailing of such receipt to such freight line company shall constitute notice of the filing of said statement and payment of said tax. If any railroad company shall fail to make or file such report, or if the state *department of revenue* be dissatisfied with any report filed, the *department of revenue* shall have the power to conduct a hearing and investigation for the purpose of ascertaining from whatever

sources to which it has access, the gross earnings of such freight line company from the use or operation of such cars within the borders of this state, and in conducting such hearing and investigation, the *department of revenue* shall have power, by subpoena, to require officers, agents, employees or receivers of such railroad company, or of such freight line company, to attend before the state *department of revenue*, and to bring with him, or them, for inspection by the *department*, any books, papers, or documents in his or their possession, or under his or their control, in any manner affecting said tax, and to testify under oath concerning any matter relating to the organization or business of such freight line company within this state. Any person who shall fail, neglect or refuse to attend before the *department*, when subpoenaed so to do, or who shall fail, neglect, or refuse to bring with him and submit for inspection by the *department* any books, papers, or documents in his possession or under his control affecting the organization or business of such freight line company within this state, or who shall refuse to testify, or refuse to answer any question which may be asked him concerning the organization or business, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months. Every freight line company, as hereinbefore defined, shall be liable for the payment of the difference, if any, between five and one-half per cent ( $5\frac{1}{2}\%$ ) of all gross earnings in this state and the amounts withheld and remitted to the state of Montana by railroads, and shall be liable for the payment of any additional taxes which the *department* may find due under its authority to raise or lower the rate to conform to the taxes which would be payable if the cars were taxed on an ad valorem basis."

Section 154. Section 84-4821, R.C.M. 1947, is amended to read as follows:

**"84-4821. Notice of incorrectness or insufficiency—procedure upon failure to file report.** Upon the filing of the reports herein provided for, the *department* shall compute and determine the amount of the tax, and on or before May 1st, notify such railroad company and freight line company if such report or payment of tax be incorrect or insufficient and such railroad company shall be liable for any additional tax found to be owing the state of Montana. If no report be filed as herein required, the *department* shall, on or before May 1st, ascertain from whatever sources to which it has access the gross earnings of such freight line company within this state from the use or operation of such cars by such railroad company; or if the gross earnings are not capable of being ascertained, the *department* may estimate the gross earnings of such freight line

company within this state from such railroad company and the railroad company which failed to make the report or pay the tax shall be liable for the same together with penalties as hereinafter provided."

Section 155. Section 84-4823, R.C.M. 1947, is amended to read as follows:

**"84-4823. Penalty for nonpayment by railroad company.** If any such railroad company shall fail to pay such tax within the time specified in this act, a penalty of ten per cent (10%) of the amount of such tax shall be added thereto and charged against such railroad company by the *department of revenue*."

Section 156. Section 84-4826, R.C.M. 1947, is amended to read as follows:

**"84-4826. Failure to file report—estoppel to impeach department of revenue's determination.** If any railroad company or freight line company affected by this act shall refuse or neglect to make any report required by this act, or shall refuse or neglect to permit an examination of its books, records, accounts and papers upon demand of the *department of revenue*, or shall refuse or neglect to appear before the *department* in obedience to its order or subpoena, or shall fail to object to the tax imposed by this act within the time and in the manner prescribed by this act, it shall be estopped to question or impeach the action or determination of the *department* as to the validity of the tax imposed hereunder."

Section 157. Section 84-4901, R.C.M. 1947, is amended to read as follows:

**"84-4901. Income tax—definitions.** For the purpose of this act unless otherwise required by the context:

- (1) The word "*department*" means the state *department of revenue*.
- (2) The word "taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this act, and does not include corporations.
- (3) The term "taxable year" means the taxpayer's taxable year for federal income tax purposes.
- (4) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate.
- (5) The word "paid" for the purposes of the deductions and credits under this act means paid or accrued or paid or incurred,

and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this act. The term "received" for the purpose of computation of taxable income under this act, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this act.

(6) The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this act with reference to the income of any taxable year, any person domiciled in the state of Montana, and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

(7) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(8) The words "foreign country" or "foreign government" mean any jurisdiction other than the one embraced within the United States, its territories and possessions.

(9) The words "information agents" include all individuals, corporations, associations and partnerships, in whatever capacity acting, including lessees, or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state, or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits and income with respect to which any person or fiduciary is taxable under this act.

(10) The term "net income" means the adjusted gross income of a taxpayer less the deductions allowed by this act.

(11) The term "taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this act."

Section 158. Section 84-4903.1, R.C.M. 1947, is amended to read as follows:

**"84-4903.1. Collection of tax from nonresidents—withholding authorized.** In order to insure collection, in the manner and to the extent provided by section 84-4907, of the income tax imposed

upon the income of nonresidents by section 84-4903, withholding of portions of certain payments to nonresidents and payment of the amounts so withheld to the state *department of revenue* as partial payment of such nonresidents' income tax in the manner set forth in the following sections shall be, and hereby is, required."

Section 159. Section 84-4903.2, R.C.M. 1947, is amended to read as follows:

"84-4903.2. **Deducting and withholding from payments to nonresidents—transmittal to state *department of revenue*—additional reports and information—rules and regulations—order for withholding payments.** Every person, firm, corporation, association, partnership, or fiduciary doing business in or having income in the state of Montana, including the state of Montana, its agencies, and instrumentalities, counties, cities, towns, school districts, and municipal corporations of every kind, which knowingly makes payments of any kind to any nonresident of the state of Montana for services performed within the state of Montana other than those described in sections 84-4942 and 84-4943, or for casual sales of property, either real or personal, located within the state of Montana, or any prizes or winnings payable from or within the state of Montana, or hiring or having a contract with any nonresident of a temporary nature to be carried out within the state of Montana, shall deduct from such payment or payments an amount to be set by the state *department of revenue*, not to exceed three per cent (3%) of such payment, which shall be transmitted by him to the state *department of revenue* as partial payment of such nonresident's income tax.

Upon finding that reports and information, in addition to that now required by law or regulation, should be filed in order to insure the collection of Montana state income tax on payment to nonresidents for leases, rentals or royalties derived from property located within the state of Montana, the *department of revenue* may adopt rules and regulations requiring the filing of such reports and information.

If upon notice to a nonresident taxpayer and hearing the *department* finds that withholding should be made on payments to the taxpayer for leases, rentals or royalties derived from property located within the state of Montana in order to insure the collection of Montana state income tax, it may order withholding on such payments in an amount equal to the tax liability of the nonresident taxpayer. Such order shall be binding upon all withholding agents as hereinafter described who shall receive a copy thereof, by mail or otherwise, until such agent shall receive a copy of an order of the *department* terminating such withholdings as to the nonresident taxpayer."

Section 160. Section 84-4903.5, R.C.M. 1947, is amended to read as follows:

"84-4903.5. **Monthly payment by withholding agent—exception.** Withholding agents required to deduct and withhold tax payments under the provisions of section 84-4903.2 shall remit such payments monthly to the state *department of revenue* for each monthly period on or before the fifteenth day of the month following the close of such monthly period, except that payments for the month of December shall be made on or before the following January 31, payments for the month of March shall be made on or before the following April 30, payments for the month of June shall be made on or before the following July 31, and payments for the month of September shall be made on or before the following October 31.

Provided, however, that when the aggregate total amount of the tax withheld under the provisions of section 84-4903.2 shall amount to less than fifty dollars (\$50) in each quarterly period of any year, such withholding agent shall not be required to file the monthly returns or to make the monthly payments last hereinabove provided for, but in lieu thereof such withholding agent shall, on or before February fifteenth of the year next succeeding that in which such payments were withheld, file an annual return in such form as shall be determined by the *department*, and shall pay there-with the amount required by this act to be deducted and withheld by such withholding agent from all payments paid during the preceding calendar year."

Section 161. Section 84-4903.6, R.C.M. 1947, is amended to read as follows:

"84-4903.6. **Modification of withholding provisions.** The conditions set forth in section 84-4903.2 may be modified by the state *department of revenue* provided:

(a) The withholding agent shall insure the *department* by bond or deposit of securities subject to approval by the state treasurer, or cash which shall not bear interest, that he will comply with the withholding requirements in so far as his obligation as a withholding agent is concerned, or

(b) The nonresident taxpayer shall furnish to the state *department of revenue* under such rules and regulations as it may prescribe an affidavit as to the correct amount of taxable income subject to the provisions of this act, in which case the state *department of revenue* shall determine the amount to be withheld."

Section 162. Section 84-4903.7, R.C.M. 1947, is amended to read as follows:

"84-4903.7. **Failure to withhold or pay—penalties.** If any

withholding agent knowingly fails to withhold or pay to the state *department of revenue* any sums required by this act, or any order made pursuant to this act, to be withheld and paid, the same additions to the amount of such tax shall be imposed and added as those specified in section 84-4924 with respect to failure to make a return of income or to pay any income tax; and any individual corporation or partnership, or any officer or employee thereof, who, with intent to evade any tax or any requirement of this act, or who, with like intent, files or supplies any false or fraudulent statement or information, shall be liable to the same penalties as those imposed by section 84-4924 with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes."

Section 163. Section 84-4903.8, R.C.M. 1947, is amended to read as follows:

"84-4903.8. *Department may require withholding agent to make return and pay tax at any time.* If the state *department of revenue* in any case has reason to believe that the collection of the tax provided for in this section is in jeopardy, it may require the withholding agent to make such return and pay such tax at any time."

Section 164. Section 84-4903.9, R.C.M. 1947, is amended to read as follows:

"84-4903.9. *Amounts withheld as lien against agent—priority.* In addition to the penalties above—provided, if any withholding agent shall withhold any sums required to be withheld and paid over to the state *department of revenue* under this act, the amount of the sums so withheld shall constitute a first lien against all property, real and personal, tangible and intangible, of the withholding agent, which lien shall take precedence over all others, it being the intention of this act that the funds withheld by the withholding agent shall be considered funds held in trust by the withholding agent."

Section 165. Section 84-4903.10, R.C.M. 1947, is amended to read as follows:

"84-4903.10. *Rights of nonresident.* No nonresident taxpayer shall have any right of action against a withholding agent on account of any moneys withheld and paid over to the state *department of revenue* under this act, but nothing in this section shall be construed as removing any legal rights or remedies of such nonresident taxpayer for return of any tax erroneously or illegally collected or for any refund that may be due him.

For the purposes of any contract, leases or other obligations, any sum withheld pursuant to this act shall be deemed to have been paid to the nonresident at the time of such withholding."

Section 166. Section 84-4903.12, R.C.M. 1947, is amended to read as follows:

"84-4903.12. *List of loans made to nonresidents upon grain for which chattel mortgage filed—duty of clerk to prepare.* It shall be the duty of the county clerk and recorder of every county in this state to prepare monthly a list showing such information as may be prescribed by the state *department of revenue* with respect to each loan made to a nonresident upon grain for which a chattel mortgage has been filed in his office and such list shall be mailed to the state *department of revenue* not later than the tenth day of the month following."

Section 167. Section 84-4903.13, R.C.M. 1947, is amended to read as follows:

"84-4903.13. *Rules and regulations.* The state *department of revenue* is hereby empowered to make all necessary rules and regulations for carrying out and enforcing this act."

Section 168. Section 84-4907, R.C.M. 1947, is amended to read as follows:

"84-4907. *Nonresident taxpayers.* In the case of a taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income from sources within this state, but shall not include income from annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations; except to the extent to which the same shall be a part of income from any business, trade, profession or occupation carried on in this state. Adjusted gross income from sources within and without this state shall be allocated and apportioned under rules and regulations prescribed by the state *department of revenue*.

In the case of a taxpayer other than a resident of this state, the deductions allowed in computing net income shall be restricted to those directly connected with the production of Montana income. A temporary resident shall be allowed those deductions allowed a resident to the extent that such deductions were actually incurred or expended in the state of Montana during the course of his residency."

Section 169. Section 84-4907.1, R.C.M. 1947, is amended to read as follows:

"84-4907.1. *Veterans' bonus—exemption from income tax law.* All payments made under the World War I Bonus Law, Korean Bonus Law and the Veterans' Bonus Law, are hereby exempt from taxation under the income tax laws of the state of Montana, and

any income tax which has been or may hereafter be paid on income received from this source shall be considered an overpayment and shall be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department, in the same manner as other income tax refund claims are paid."

Section 170. Section 84-4913, R.C.M. 1947, is amended to read as follows:

"84-4913. **Information agents' duties.** Every information agent shall make return to the *department* of complete information concerning the following distributions made for any individual during the taxable year, upon which no withholding tax has been deducted:

(1) Sums in excess of ten dollars (\$10) distributed as dividends, interest as defined in section 6049 of the Internal Revenue Code of 1965 or as that section may be amended, and payments made under a retirement plan covering an owner-employee as defined in section 401 (c) (3) of the Internal Revenue Code of 1965 or as that section may be amended;

(2) Interest, other than that specified in subsection (1) of this section, rents, royalties, salaries, wages, prizes, awards, annuities, pensions and other fixed or determinable gains, profits and income in excess of six hundred dollars (\$600), except interest coupons payable to the bearer.

The return should be made under the regulations and in the form and manner prescribed by the *department*, provided, however, that for ease of reporting, the form shall be as nearly identical to the comparable federal form as possible."

Section 171. Section 84-4914, R.C.M. 1947, is amended to read as follows:

"84-4914. **Returns and payment of tax—penalty and interest—refunds—credits.** (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of six hundred dollars (\$600) or over, and married individuals not filing separate returns and having a combined gross income for the taxable year of twelve hundred dollars (\$1,200) or over, shall be liable for the return to be filed on such forms and according to such rules and regulations as the *department of revenue* may prescribe.

(2) In accordance with instructions set forth by the *department*, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made,

the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired, unless the *department* so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including, but not limited to those subject to the provisions of sections 84-4939 and 84-4943, as amended, shall compute the amount of income tax payable and shall at the time of filing the return required by this act, pay to the *department* any balance of income tax remaining unpaid after crediting the amount withheld as provided by section 84-4943, as amended, and/or any payment made by reason of an estimated tax return provided for in section 84-4939, as amended, provided however, the tax so computed is greater by one dollar (\$1) than the amount withheld and/or paid by estimated return as provided in this act.

If the amount of tax withheld and/or payment of estimated tax exceeds by more than one dollar (\$1) the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the *department* shall examine and verify the tax.

(6) If the amount of the tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the *department* within thirty (30) days after notice of the amount of the tax as computed with interest added at the rate of nine per centum (9%) per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within thirty (30) days after the first notice of the amount is mailed to the taxpayer.

If payment is not made within thirty (30) days or if the understatement is due to negligence on the part of the taxpayer, but without fraud, there shall be added to the amount of the deficiency five per centum (5%) thereof, provided, however, that no deficiency penalty shall be less than two dollars (\$2). Interest will be computed at the rate of nine per centum (9%) per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subdivision, the interest shall in all cases be computed from the date the return and tax was originally due (as distinguished from the due date as it may have been extended) to the date of payment.

If the time for filing a return is extended, the taxpayer shall pay in addition, interest thereon at the rate of nine per centum (9%) per annum from the time when the return was originally required to be filed to the time of payment."

Section 172. Section 84-4919, R.C.M. 1947, is amended to read as follows:

"84-4919. **Time for filing—affidavit—forms.** Returns shall be made to the *department* on or before the fifteenth day of the fourth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of April in each year. The *department* may grant a reasonable extension of time for filing returns whenever in its judgment good cause exists and shall keep a record of every such extension and the reason therefor. Except in the case of persons who are abroad, no such extension shall be granted for more than six (6) months. Such returns shall set forth such facts as the *department* may deem necessary for the proper enforcement of this act. There shall be annexed to such return the affidavit or affirmation of the persons making the return, to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the *department* upon application, but failure to secure the form shall not relieve any taxpayer from the obligation of making any return herein required; provided, that every taxpayer liable for a tax under this law shall pay a minimum tax of one dollar (\$1.00)."

Section 173. Section 84-4920, R.C.M. 1947, is amended to read as follows:

"84-4920. **Revision of return—time for determining tax—examination of records and persons.** If, in the opinion of the *department of revenue*, any return of a taxpayer is in any essential respect incorrect, it may revise such return, or if any taxpayer fails to make return as herein required, the *department* is authorized to make an estimate of the taxable income of such taxpayer from any information in its possession, and to audit and state an account according to such return or the estimate so made by it for the taxes, penalties and interest due the state from such taxpayer. Except in the case of willfully false or fraudulent return with intent to evade the tax, the amount of tax due under any return shall be determined by the *department* within five (5) years after the return was made, and the *department* thereafter shall be barred from revising any such returns or recomputing the tax due thereon and no proceeding in court for the collection of such tax shall be instituted after the expiration of said period notwithstanding the provisions of section 84-4929. In the case of a willfully false or

fraudulent return, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due, and where no return has been filed, the tax may be assessed at any time.

The *department*, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of taxable income of any person where information has been obtained, may also examine or cause to have examined, by any agent or representative designated, by it for that purpose, any books, papers or records of memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or any officer or employee of such person, or the attendance of any person having knowledge in the premises, and may take testimony and require proof material for its information, with power to administer oaths to such person or persons."

Section 174. Section 84-4922, R.C.M. 1947, is amended to read as follows:

"84-4922. **Revision—application—hearing—adjustment.** If an application for revision be filed with the *department* by a taxpayer within five (5) years from the original due date of the return the *department* shall grant a hearing thereon, and if it is made to appear upon any such hearing by evidence submitted to it or otherwise, that any such computation includes taxes or other charges which could not have been lawfully demanded, or that payment has been illegally made or exacted of any such amount so computed, the *department* shall resettle the same according to law and the facts, and adjust the computation of taxes accordingly, and shall send notice of its determination thereon to the taxpayer."

Section 175. Section 84-4924, R.C.M. 1947, is amended to read as follows:

"84-4924. **Penalties for violations of act.** (1) If any person, without intent to evade any tax imposed by this act, fails to make a return of income at the time required by or under the provisions of this act, there shall be imposed a minimum penalty of ten dollars (\$10) for such failure, or, if a tax in excess of two hundred dollars (\$200) is due, a penalty in an amount equal to five (5) per centum thereof, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any person, without intent to evade any tax imposed by this act, fails to pay any tax if one is due at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to ten (10) per centum thereof, but not less than ten dollars (\$10), unless it is shown that the failure was due to reasonable cause and not due to neglect. Interest at the rate of nine per centum (9%)

per annum shall be added to the tax for the entire period it remains unpaid.

(2) If any person fails with intent to evade any tax imposed by this act, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this act there shall be added to the tax an additional amount equal to twenty-five per centum (25%) thereof, but such additional amount shall in no case be less than twenty-five dollars (\$25), and interest at one (1) per centum for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation or partnership, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any tax or any requirement of this act or any lawful requirement of the *department* thereunder, fails to pay the tax, or to make, render, sign or verify any return, or to supply any information, within the time required by or under the provisions of this act, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars (\$1,000.00), to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars (\$1,000.00) or be imprisoned in the county jail not to exceed one (1) year, or both, at the discretion of the court.

(4) The certificate of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied."

Section 176. Section 84-4928, R.C.M. 1947, is amended to read as follows:

"84-4928. **Levy upon and sale of property for payment of income taxes.** If any tax imposed by this act or any portion of such tax is not paid within sixty (60) days after the same becomes due, the *department* shall issue a warrant under its official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person owing the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the *department* and pay to it the money collected by virtue thereof by a

time to be therein specified, not more than sixty (60) days from the date of the warrant. The sheriff shall within five (5) days after the receipt of the warrant, file with the clerk of the district court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property or chattels real of the person against whom it is levied in the same manner as a judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the *department* a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect income taxes, and in the execution thereof, such agent shall have the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the *department* shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax."

Section 177. Section 84-4928.1, R.C.M. 1947, is amended to read as follows:

"84-4928.1. **Jeopardy assessments.** If the state *department of revenue* finds that the assessment or collection of the tax or a deficiency for any taxable year will be jeopardized in whole or in part by delay, it may mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the state *department of revenue* may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated.

A jeopardy assessment is immediately due and payable and proceedings for collection may be commenced at once."

Section 178. Section 84-4929, R.C.M. 1947, is amended to read as follows:

"84-4929. **Action by attorney general.** Action may be brought at any time by the attorney general of the state at the instance of the *department*, in the name of the state to recover the amount of any taxes, penalties and interest due under this act."

Section 179. Section 84-4930, R.C.M. 1947, is amended to read as follows:

"84-4930. **Department authorized to make rules and regulations.** The *department* is hereby authorized to make such rules and regulations and to require such facts and information to be reported as it may deem necessary to enforce the provisions of this act."

Section 180. Section 84-4931, R.C.M. 1947 is amended to read as follows:

"84-4931. **Divulging information unlawful — exceptions — penalty.** (1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the *department* or any deputy, assistant, agent, clerk or other officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act, or any other information secured in the administration of this act. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding under the provisions of this act, or any other taxing act, to which the *department* is a party, or on behalf of any party to any action or proceedings under the provisions of this act or such other act when the reports or facts shown thereby are directly involved in such action or proceedings, in either of which events, the court may require the production of, and may admit in evidence, so much of said reports or of the facts shown thereby, as are pertinent to the action or proceedings and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return or report filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general, or other legal representatives of the state, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted in accordance with the provisions of section 84-4928 and section 84-4929. Reports and returns shall be preserved for three (3) years and thereafter until the *department* orders them to be destroyed.

(2) Any offense against subdivision one (1) of this section shall be punished by a fine not exceeding one thousand dollars

(\$1,000.00), or by imprisonment in the county jail not exceeding one (1) year, or both, at the discretion of the court, and if the offender be an officer or employee of the state, he shall be dismissed from office and be incapable of holding any public office in this state for a period of one (1) year, thereafter.

(3) Notwithstanding the provisions of this section, the *department* may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing a tax upon the incomes of individuals, or the authorized representatives of either such officer, to inspect the returns of income of any individuals, or may furnish to such officer or his authorized representatives an abstract of the return of income of any individual or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any individual, but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act.

(4) Further, notwithstanding any of the provisions of this section, the *department* shall furnish to the Montana highway patrol board all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to section 84-4910 (d), for the purpose of enabling said highway patrol board to administer the provisions of section 31-127, R.C.M. 1947."

Section 181. Section 84-4937, R.C.M. 1947, is amended to read as follows:

"84-4937. **Credit allowed resident taxpayers for income taxes imposed by foreign states.** Subject to the following conditions, residents of this state shall be allowed a credit against the taxes imposed by this act for income taxes imposed by and paid to another state or country on income taxable under this act.

(1) The credit shall be allowed only for taxes paid to such other state on income derived from sources within such state which is taxable under the laws of such state or country irrespective of the residence or domicile of the recipient;

(2) The credit shall not be allowed if such other state or country allows residents of this state a credit against the taxes imposed by such state for taxes paid or payable under this act;

(3) The allowable credit shall be computed by formula to be prescribed by the *department*."



Section 182. Section 84-4938, R.C.M. 1947, is amended to read as follows:

"84-4938. **Furnishing copy of federal return, copies of federal corrections, and filing amended return required.** Every taxpayer shall upon request of the *department*, furnish a copy of the return for the corresponding year which he has filed or may file with the federal government showing his net income and how obtained and the several sources from which derived. If the amount of a taxpayer's taxable income is changed or corrected by the United States Internal Revenue Service or other competent authority, the taxpayer shall report such change or correction to the *department* within ninety days after receiving notice thereof. If a taxpayer files an amended federal income tax return changing or correcting his federal taxable income for any taxable year, he shall also file an amended return with the state *department of revenue* within ninety days thereafter. The *department* shall supply all necessary forms and shall return all such forms to the taxpayer after they have been examined by the *department*, upon the request of the taxpayer."

Section 183. Section 84-4939, R.C.M. 1947, is amended to read as follows:

"84-4939. **Declaration of estimated tax.** (1) Every individual, except farmers, ranchers or stockmen, shall, at the time prescribed in subsection (3) of this section, make a declaration of his estimated tax for the taxable year, if his net income from sources other than wages, salaries, bonus, or other emolument can reasonably be expected to equal or exceed his net income from wages, salaries, bonus or other emolument, which wages, salaries, bonus or other emolument are subject to withholding.

(2) In the declaration required under subsection (1) of this section the individual shall state:

(a) The amount which he estimates as the amount of tax under section 84-4902 for the taxable year;

(b) The amount which he estimates will be withheld from wages paid by his employer if said individual is an employee.

(c) The excess of the amount estimated under subparagraph (a) over the amount estimated under subparagraph (b) which excess for purposes of this section shall be considered the estimated tax for the taxable year.

(d) Such other information as may be prescribed in rules and regulations promulgated by the *department*.

(3) The declaration required under subsection (1) of this sec-

tion shall be filed with the *department* on or before April fifteenth of the taxable year except that if the requirements of subsection (1) of this section are first met:

(a) After April first and before October first of the taxable year the declaration shall be filed on or before October fifteenth of the taxable year.

(b) After October first of the taxable year the declaration shall be filed on or before February fifteenth of the succeeding taxable year.

Provided that the declaration required to be filed during 1955 may be filed not later than October 15, 1955 if the requirements of subsection (1) of this section are fulfilled at any time prior to October 2, 1955.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3) of this section under rules and regulations prescribed by the *department*.

(5) If on or before February fifteenth of the succeeding taxable year, the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on their return as payable then under rules and regulations prescribed by the *department*.

(a) If the declaration is not required to be filed during the taxable year but is required to be filed on or before such February fifteenth, such return shall for the purposes of this section be considered as such declaration; and

(b) If the tax shown on the return is greater than the estimated tax shown in a declaration previously made or in the last amendments thereof such return shall for the purposes of this section be considered as the amendment of the declaration permitted by subsection (4) of this section to be filed on or before such February fifteenth.

(6) The *department* shall promulgate rules and regulations governing reasonable extensions of time for filing declarations and paying the estimated tax, except in the case of taxpayers who are abroad, and no such extension shall be for more than six (6) months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer."

Section 184. Section 84-4940, R.C.M. 1947, is amended to read as follows:

"84-4940. **Installment payments of estimated tax.** (1) Esti-

ated tax provided for in section 84-4939 shall be paid as follows:  
 [a] If the declaration is filed on or before April fifteenth of the taxable year the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of filing of the declaration and the second or last installment shall be paid on October fifteenth of the taxable year:

(b) If the declaration is filed after April fifteenth and not after October fifteenth of the taxable year and is not required by subsection (3) of section 84-4939 to be filed on or before April fifteenth of the taxable year the estimated tax shall be paid at the time of filing of the declaration;

(c) If the declaration is filed after October fifteenth of the taxable year and is not required by subsection (3) of section 84-4939 to be filed on or before October fifteenth of the taxable year, the estimated tax shall be paid in full at the time of filing of the declaration.

(d) If the declaration is filed after the time prescribed in section 84-4939 including cases where extensions of time have been granted paragraphs (b) and (c) of this subsection shall not apply and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in subsection (3) of section 84-4939 and the remaining installments shall be paid at the times at which and in the amounts in which they would have been payable if the declaration had been so filed. Provided that payments required under this section for purposes of the taxable year 1955 shall be limited to fifty per cent (50%) of the total estimated tax for 1955.

(2) If any amendment of a declaration is filed after April fifteenth and before October fifteenth of the taxable year the remaining installment, if any, shall be ratably increased or decreased as the case may be; to reflect the respective increase or decrease in the estimated tax by reason of such amendment and if any amendment is made after October fifteenth of the taxable year any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(3) At the election of the individual any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax or any installment thereof shall be considered payment on account of the tax for the taxable year.

(5) The application of this section of this act to taxable years

of less than twelve (12) months shall be as prescribed in the rules and regulations promulgated by the *department*.

(6) In the application of this section of this act to taxpayers reporting income on a fiscal year basis there shall be substituted for the dates specified therein the months corresponding thereto."

Section 185. Section 84-4942, R.C.M. 1947, is amended to read as follows:

"84-4942. **Definitions.** When used in this act:

(a) The word "*department*" means the state *department of revenue*.

(b) The term "*wages*" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

(1) for active service as a member of the armed forces of the United States;

(2) for agricultural labor as defined in paragraph (c) following;

(3) for domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority;

(4) for casual labor not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars (\$50.00) or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if;

(A) on each of some twenty-four (24) days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business.

(B) such individual was regularly employed (as determined under subparagraph (a) [A]) by such employer in the performance of such service during the preceding calendar quarter.

(5) for services by a citizen or resident of the United States for a foreign government or an international organization.

(6) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or

by a member of a religious order in the exercise of duties required by such order.

(7) (A) for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution or

(B) for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(8) for services not in the course of the employer's trade or business, to the extent paid in any medium other than cash; when such payments are in the form of lodgings or meals and such services are received by the employee at the request of and for the convenience of the employer;

(9) to or for an employee as a payment for or a contribution toward the cost of any group plan or program which benefits the employee, including, but not limited to, life insurance, hospitalization insurance for the employee or dependents, and employees' club activities.

(c) The term "agricultural labor" includes all services performed on a farm or ranch in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(d) Payroll period—For purposes of this chapter, the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

(e) Employee—For purposes of this chapter, the term "employee" includes an officer, employee or elected public official of the United States, the state of Montana, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(f) Employer—The term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the

person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages."

Section 186. Section 84-4943, R.C.M. 1947, is amended to read as follows:

**"84-4943. Deduction and withholding of tax from wages — amount.** Every employer making payment of wages shall deduct and withhold upon such wages, a tax determined in accordance with the withholding tax tables which shall be prepared and issued by the *department*. Persons on active service as a member of the armed forces of the United States shall not be subject to the provisions of this section."

Section 187. Section 84-4946, R.C.M. 1947, is amended to read as follows:

**"84-4946. Quarterly payment by employer—exception.** On or before the last day of the months of April, July, October and January of each calendar year, beginning with the month of October, 1955, every employer subject to the provisions of sections 84-4943 and 84-4945 shall file a return in such form and containing such information as may be required by the *department*, and shall pay therewith the amount required by section 84-4943 to be deducted and withheld by said employer from wages paid during the preceding quarterly period of three (3) months, beginning with wages paid from and after July 1, 1955.

If the total amount of the tax withheld by an employer under the provisions of this act upon the wages of all employees of any employer is less than ten dollars (\$10) in each quarterly period of any year, such employer shall not be required to file the quarterly returns or to make the quarterly payments as provided in the preceding paragraph, but in lieu thereof such employer shall, on or before February fifteenth of the year succeeding that in which such wages were paid, file an annual return in such form as may be required by the *department*, and shall pay therewith the amount required to be deducted and withheld by the said employer from all wages paid during the preceding calendar year.

Provided, however, that if the *department* has reason to believe that collection of the amount of any tax withheld is in jeopardy, it may proceed as provided for under section 84-4928.1 with respect to jeopardy assessments of income tax."

Section 188. Section 84-4948, R.C.M. 1947, is amended to read as follows:

**"84-4948. Annual withholding statement.** Every employer

shall, prior to the fifteenth day of February in each year furnish to each employee a written statement showing the total wages paid by the employer to the employee during the preceding calendar year and showing the amount of the federal income tax deducted and withheld from such wages and the amount of the tax deducted and withheld therefrom under the provisions of this act. Said statement shall contain such additional information and shall be in such form as the *department* shall prescribe, and a duplicate thereof shall be filed by the employee with his state income tax return."

Section 189. Section 84-4950, R.C.M. 1947, is amended to read as follows:

"84-4950. **Filing of annual statement by employer — duty.** Every employer shall, on or before the fifteenth day of February in each year file with the *department* a statement in such form and summarizing such information as the *department* shall require, including the total wages paid to each employee during the preceding calendar year or any part thereof, and showing the total amount of the federal income tax deducted and withheld from such wages and the total amount of the tax deducted and withheld therefrom under the provisions of this act. Said annual statement filed by an employer shall, with respect to the wage payments reported therein, constitute full compliance with the requirements of section 84-4913, relating to the duties of information agents, and no additional information return shall be required with respect to such wage payments."

Section 190. Section 84-4951, R.C.M. 1947, is amended to read as follows:

"84-4951. **Amounts withheld, held in trust for state—warrants to collect.** Every employer who deducts and withholds any amounts under the provisions of this act shall hold the same in trust for the state of Montana, and if any tax imposed by this act or any portion of such tax is not paid within sixty (60) days after the same becomes due, the *department* shall issue a warrant under its official seal which shall have the same force and effect and shall be enforced and carried into execution in the same manner as that specified in section 84-4928, with respect to warrants relating to unpaid income taxes."

Section 191. Section 84-4955, R.C.M. 1947, is amended to read as follows:

"84-4955. **Rules and regulations—remedies for administration, enforcement and collection.** The *department* is hereby empowered to adopt rules and regulations for the carrying out of the pro-

visions of this act and the enforcement thereof. All of the remedies available to the state of Montana for the administration, enforcement and collection of income taxes shall be available and shall apply to the tax required to be deducted and withheld under the provisions of this act."

Section 192. Section 84-4956, R.C.M. 1947, is amended to read as follows:

"84-4956. **Credits and refunds.** If the *department of revenue* discovers from the examination of a return, or upon claim duly filed by a taxpayer, or upon final judgment of a court, that the amount of income tax is in excess of the amount due, or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty or interest, then due from the taxpayer, and the balance of such excess shall be refunded to the taxpayer.

Effective with taxable years ending on or after December 31, 1959, no such credit or refund shall be allowed or made after five (5) years from the date prescribed by statute for filing the return, unless before the expiration of such period a claim therefor is filed by the taxpayer, or the *department of revenue* has determined the existence of the overpayment and has approved the refund or credit thereof. Within six (6) months after a claim for refund is filed the state *department of revenue* shall examine said claim and either approve or disapprove it. If said claim is approved, the credit or refund shall be made to the taxpayer within sixty (60) days after the claim is approved; if the claim is disallowed, the state *department of revenue* shall so notify the said taxpayer and shall grant a hearing thereon upon proper application by the taxpayer. If the *department* disapproves a claim for refund, review of the determination of the *department* may be had as otherwise provided in this chapter.

Except as hereinafter provided for, effective with taxable years ending on or after December 31, 1962, interest shall be allowed on overpayments at the rate of six per cent (6%) per annum from the due date of the return or from the date of the overpayment (whichever date is later) to the date the *department of revenue* approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall be deemed to be the date on which the return for the taxable year was due. No interest shall accrue on an overpayment if the taxpayer elects to have it applied to his estimated tax for the succeeding taxable year; nor shall interest accrue during any period the processing of a claim for refund is delayed more than thirty (30) days by reason of failure of the taxpayer to furnish information requested by the state *department of revenue* for the purpose of verifying the

amount of the overpayment. No interest shall be allowed (a) if the overpayment is refunded within six (6) months from the date the return is due or the date the return is filed, whichever date is later; or (b) if the overpayment results from the carryback of a net operating loss; or (c) if the amount of interest is less than one dollar (\$1.00). An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability, or one reasonably assumed to be imposed by this law, shall not be considered an overpayment with respect to which interest is allowable."

Section 193. Section 84-4958, R.C.M. 1947, is amended to read as follows:

"84-4958. **Release of lien or partial discharge of property.**

(1) The *department of revenue* shall issue a certificate of release of any lien imposed with respect to any tax due under this chapter, when it finds that the liability for the amount of tax assessed, together with all penalties and interest in respect thereof, has been fully satisfied. The *department of revenue* may issue a certificate of release if it determines that the lien is unenforceable.

(2) The *department of revenue* may issue a certificate of discharge of any part of the property subject to any lien imposed with respect to any tax due under this chapter, if:

(a) It finds that the fair market value of that part of the property remaining subject to the lien is at least double the value of the unsatisfied liability secured by such lien and the amount of all other liens upon the property which have priority to such lien;

(b) There is paid to the state treasurer in part satisfaction of the liability secured by the lien, an amount which shall not be less than the value, as determined by the *department of revenue*, of the interest of the state of Montana in the part to be discharged; or

(c) The *department of revenue* determines at any time that the interest of the state of Montana in the part to be so discharged has no value."

Section 194. Section 84-5210, R.C.M. 1947, is amended to read as follows:

"84-5210. **State department of revenue to prescribe levy.** The state *department of revenue* is hereby empowered and it is made its duty, annually, to prescribe the levy to be made against livestock of all classes for the purpose above indicated, and the various boards herein named shall have the right to recommend to said state *department of revenue* the amount of such levy."

Section 195. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. **Net proceeds tax—statement of yield, penalty, extension of time.** Every person, partnership, corporation, or association, engaged in mining, extracting or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or sources whatever, precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, or other valuable mineral, must on or before the thirty-first day of March of each year make out a statement of the gross yield of the above-named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of January of the year in which such statement is made, and the value thereof. Such statement shall be in the form prescribed by the state *department of revenue*, and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such corporation, association or partnership, and must be delivered to the state *department of revenue* on or before the thirty-first day of March. Such statement shall show the following:

1. The name and address of the owner of lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations or associations during the period covered by the statement.

2. The description and location of the mine.

3. The number of tons of ore, barrels of petroleum, cubic feet of natural gas or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement.

4. The amount and character of such ores, mineral products or deposits, and the yield of such ores, mineral products or deposits from such mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of said ores or mineral products or deposits measured by standard units of measurement, yielded to such person, corporation or association so engaged in mining, and to said royalty holders and each of them, if any, during the period covered by the statement.

5. The gross yield or value in dollars and cents.

6. Actual cost of extracting same from mine.

7. Actual cost of transporting to place of reduction or sale.

8. Actual cost of reduction or sale.

9. Actual cost of marketing the product and conversion of same into money.

10. Cost of construction, repairs and betterments of mines, and cost of repairs and replacements of reduction works.

11. The assessed valuation of reduction works for the calendar year for which such return is made.

12. Actual cost of fire insurance and workmen's compensation insurance.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state *department of revenue* when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of  $\frac{2}{3}$  of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state *department of revenue* required by this section. The state *department of revenue* shall assess a penalty of \$25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state *department of revenue* and deposited to the credit of the general fund of the state of Montana.

The state *department of revenue* shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410."

Section 196. Section 84-5406, R.C.M. 1947, is amended to read as follows:

"84-5406. **Assessment of royalties.** Upon receipt of the list or schedule setting forth the names and addresses of any and all persons, corporations and associations owning or claiming royalty, and the amount or amounts paid or yielded as royalty to such royalty owners or claimants during the year for which such return is made, the state *department of revenue* shall proceed to the assessment of all such royalties, and shall assess the same at the full cash value of the money or product yielded during such preceding calendar year, and the same shall be taxed on the same basis as net proceeds of mines are taxed as provided by section 84-301."

Section 197. Section 84-5407, R.C.M. 1947, is amended to read as follows:

"84-5407. **False or fraudulent reports, procedure in case of.** If any such report required by this chapter contains any willfully

false or fraudulent statements as to the gross amount received by any person, corporation or association so engaged in mining as aforesaid, for any mine's product, then the said state *department of revenue* shall compute the gross value of such mine's product, and such gross value shall be based upon the average quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery, as evidenced by some established authority or market report, such as the Engineering and Mining Journal of New York City, or some other standard publication, giving the market reports for the year covered by the statement; and, provided further, that if any such person, corporation, or association has sold or otherwise disposed of any of its mine's product at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the state *department of revenue* shall compute the gross value of such portion of said mine's product, so sold or disposed of substantially below the market price as aforesaid, which gross value shall be based upon the quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery at the time such portion of the product was so sold or otherwise disposed of, as evidenced by some established authority or market report, such as the Engineering and Mining Journal, of New York City, or some other standard publication giving the market reports for the year covered by such statement. Should there be no quotation covering any particular product, then the state *department of revenue* shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 198. Section 84-5408, R.C.M. 1947, is amended to read as follows:

"84-5408. **Transmission of net proceeds to county assessor.** On or before the first day of July in each year the state *department of revenue* shall transmit to the county assessor of each county in which such mines and mining claims are situated, the valuation of the net proceeds of such mines and mining claims for the purpose of taxation, as the same have been determined and fixed by the state *department of revenue*. [The said valuation for the purpose of taxation shall be an amount equal to the average net proceeds from such mine for the five calendar years next preceding, or for as many years next preceding as the mine has produced gross yield, or for as many years next preceding as this act has been in effect, whichever is less. The average net proceeds for valuation shall be computed by dividing the total net proceeds for such period by the number of years for which such net proceeds were taken into account. In

determining net proceeds of each individual year for averaging to determine valuation for purposes of taxation, the actual annual net proceeds as defined in section 84-5403, including losses, if any, from such mines and mining claims shall be taken for each year rather than the average valuation for such year. In no event shall there be valuation for the purpose of taxation for a year when there has been no gross yield from such mines and mining claims for the preceding average years and such years shall not be taken into account in computing the net proceeds for any year.] The county assessor shall immediately enter the same upon an assessment roll called "assessment roll of net proceeds of mines," alphabetically arranged, and in which shall be specified in separate columns and under the following heads:

1. The name and address of the owner or lessee of the mine.
2. The description and location of the mine.
3. The number of tons of ore or other mineral products or deposits extracted and treated or sold from the mine during the period covered by the statement.
4. The gross value of the ores, mineral products or deposits, in dollars and cents, extracted and treated, or sold during the year, to be determined as provided in the preceding section.
5. The net proceeds, in dollars and cents, of such mine or mining claims during the years, to be determined as provided in the preceding section.

The form of said assessment roll shall be prescribed by the state *department of revenue* in conformity with the provisions of this act."

Section 199. Section 84-5409, R.C.M. 1947, is amended to read as follows:

"84-5409. **Taxation and payment on royalty interests.** At the time of transmitting net proceeds assessments the state *department of revenue* shall also transmit the royalty lists or schedules to the county assessor of each county in which such mines and mining claims are located and thereupon the county assessor shall prepare from such net proceeds and royalty assessments a tax roll which shall be by him furnished to the county treasurer on or before the fifteenth day of September following, upon which date said taxes shall be due and payable. Assessments of royalty on production of metals, and minerals other than petroleum and natural gas, shall be entered by the county assessor in the personal property assessment book in the name of the recipient or owner of such royalty. The county treasurer shall proceed to give full notice thereof to

such recipient or royalty owner, and to collect the taxes thereon in the same manner as taxes on net proceeds of mines."

Section 200. Section 84-5410, R.C.M. 1947, is amended to read as follows:

"84-5410. **Penalty for failure to make statement — estimate of net proceeds.** If any person, partnership, association, or corporation shall refuse or neglect to make and deliver, under oath, to the state *department of revenue* any statement required by this act, or to comply with any requirements of this act, the state *department of revenue* must cause such refusal to be noted upon the assessment roll opposite the name of such person, partnership, association, or corporation, and must make an estimate of the ores, mineral products, or deposit mined and treated or sold by such person, partnership, association, or corporation, and upon such estimate shall fix and determine the value of the net proceeds of said mine or mining claim, as hereinbefore set forth. In making an estimate of the value of the net proceeds under this section, the state *department of revenue* shall have the power to subpoena and examine, under oath, any person, members of a partnership or association, officers or agents of a corporation, and the employees of such person, partnership, association, or corporation, and every person who refuses or neglects to appear and testify, when required so to do by the state board of equalization as herein provided, for each and every refusal shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or both such fine and imprisonment."

Section 201. Section 84-5412, R.C.M. 1947, is amended to read as follows:

"84-5412. **Examination of records by department of revenue.** The state *department of revenue* shall have the right and power, at any time, to examine the records of any person, partnership, association, or corporation specified in this act, as the same may pertain to the yield of ore or mineral products or deposit, in order to verify the statements made by such person, partnership, association, or corporation, and if, from such examination, or from other information, said state *department of revenue* find any statement, or any material part thereof, willfully false or fraudulent, said state *department of revenue* must assess in the same manner as provided for in section 84-5403."

Section 202. Section 84-5415, R.C.M. 1947, is amended to read as follows:

"84-5415. **Dissolved corporations to make returns on net proceeds of mines and pay tax accrued.** Every corporation which shall

be dissolved or cease to do business in this state during any tax-paying year shall make all statements, reports and returns required by law to be made with reference to the net proceeds of mines, and pay the tax due for such period as it transacted business, on or before the date of such dissolution or cessation of business. The state *department of revenue* may grant a reasonable extension of time for filing a return upon good cause shown therefor."

Section 203. Section 84-5501, R.C.M. 1947, is amended to read as follows:

"84-5501. **Definitions.** The following definitions shall be applied to the terms used in this act:

(1) "Agreement" shall mean "contract," and shall include renewals and alterations of a contract.

(2) "Department" shall mean the state *department of revenue* of the state of Montana.

(3) "State" shall mean the state of Montana.

(4) "Services" shall mean such public and state functions as are performed for property in and persons residing within this state.

(5) "United States" shall mean the United States of America.

(6) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States, located within this state, and shall include persons inhabiting such project."

Section 204. Section 84-5502, R.C.M. 1947, is amended to read as follows:

"84-5502. State *department of revenue* may make requests for sums in lieu of taxes from United States, when. The *department of revenue* is hereby authorized and empowered to make requests of the United States, for and on behalf of this state, for payment of such sums in lieu of taxes as the United States may agree to pay, and to consummate agreements with the United States, in the name of this state, for the performance of services by the state for the benefit of projects, and for the payment by the United States to the state, in one or more installments, of such sums in lieu of taxes."

Section 205. Section 84-5606.2, R.C.M. 1947, is amended to read as follows:

"84-5606.2. **Definitions.** As used in this act the following definitions shall apply unless the context otherwise requires:

(a) The word "*department*" shall mean the state *department of revenue* of the state of Montana.

(b) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association however formed.

(c) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of nontobacco paper, or any other substance or material except tobacco.

(d) The words "insignia" or "indicia" shall mean the impression or mark approved by the state *department of revenue*, under the provisions of this act.

(e) The words "full face value of insignia" shall mean the total amount of the tax levied under this act.

(f) The words "public warehouses" shall mean agents or representatives of manufacturers who receive cigarettes in carload lots for distribution to wholesaler and retailers in original cases.

(g) The word "wholesaler" shall mean and include any person resident in this state who brings or causes to be brought into this state unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells, or otherwise disposes of the same after they shall reach this state; and also any person who, within this state, manufactures or produces, directly or indirectly, cigarettes and sells or distributes the same within this state.

(h) The words "licensed wholesaler" shall mean a wholesaler duly licensed under the provisions of this act.

(i) The words "cigarette vendor" shall mean and include any person, company or corporation, doing business in the state, who purchases cigarettes through a wholesaler for ten (10) or more cigarette vending machines, which he operates for a profit in premises or locations other than his own. Such person, company or corporation shall be treated as a wholesaler. Any person, company, corporation or fraternal organization who operates less than ten (10) cigarette vending machines shall be treated as a retailer.

(j) The word "retailer" shall mean any person other than a wholesaler, who is engaged in the business of selling cigarettes at retail.

(k) The words "licensed retailer" shall mean any person other than a wholesaler, who is duly licensed under the provisions of this act.

(l) The words "sale" and "sell" shall mean and include any transfer of cigarettes by sale, as defined by section 87A-2-106, R.C.M. 1947, or by gift, barter or exchange."



Section 206. Section 84-5606.3, R.C.M. 1947, is amended to read as follows:

**"84-5606.3. Wholesaler's and retailer's licenses — multiple places of business — application forms.** Every wholesaler or retailer shall obtain a license from the *department* before engaging in the business of wholesaler or retailer. A separate application and a separate license shall be required for each place of business owned, controlled or operated by such wholesaler or retailer within the state of Montana. Application forms shall require the type and general description of applicant organizations, names and home addresses of all known owners, state whether or not principals of such organization have been convicted of a felony and identify each such individual, and such other pertinent information as the board may require in regularly promulgated regulations."

Section 207. Section 84-5606.4, R.C.M. 1947, is amended to read as follows:

**"84-5606.4. Vending machines not places of business per se — reports.** Cigarette vending machines shall not be considered as places of business per se but a report of each and all machines shall be made on forms prescribed by the *department*, which shall state the name and address of the cigarette vendor, the assigned location of each machine with best machine identification available, type of business, and such other information as the board may require for proper administration of this act."

Section 208. Section 84-5606.6, R.C.M. 1947, is amended to read as follows:

**"84-5606.6. Disposition of license fees — appropriations — transfer to general fund — justification of expenses.** All license fees collected under the provisions of this act shall be deposited monthly with the state treasurer in the *department's* cigarette enforcement account in the earmarked revenue fund. There shall be appropriated to the *department*, from said cigarette enforcement account, such sum as may be necessary to comply with the provisions of this act for the fiscal biennium ending June 30, 1971. On or before June 30, 1971, the *department* shall pay to the state treasurer to the credit of the state general fund, all funds in excess of seven thousand five hundred dollars (\$7,500) in said cigarette enforcement account, not needed for the administration of this act.

For the biennium beginning July 1, 1971, and each biennium thereafter, there shall be appropriated to the board a sum deemed justified and reasonable to operate the *department's* cigarette enforcement division, providing that after payment of all pending and known expenses, all sums so appropriated in excess of seven thou-

sand five hundred dollars (\$7,500) not needed for the administration of this act, shall be transferred to the state general fund to be available for general fund purposes. Such transfer shall be made within fifteen (15) days of the last day of the biennium.

All expenses charged against said cigarette enforcement account shall be justified by itemized claims coupled with standard accounting reports."

Section 209. Section 84-5606.8, R.C.M. 1947, is amended to read as follows:

**"84-5606.8. Revocation or suspension of license — hearing and appeal — duration — sale of cigarettes after revocation or suspension a misdemeanor — forfeiture.** The *department* may revoke or suspend the license of any wholesaler or retailer for failure to comply with any provision of this act or of the Unfair Cigarette Sales Act (sections 51-301 through 51-314, R.C.M. 1947), and with any lawful rule or regulation of the *department* made pursuant to said laws. Any person aggrieved by such revocation or suspension may apply to the *department* for a hearing which shall be open to the public, and may further appeal to the court, as hereinafter provided. When a license has been duly revoked, no license shall again issue to such licensee for a period of one (1) year thereafter. When a license has been duly suspended, the suspension may be for any period not to exceed one (1) year. Any person who shall sell cigarettes after his license has been revoked or suspended is guilty of a misdemeanor, and shall be punished as hereinafter provided, and all cigarettes in his possession shall be seized and forfeited to the state."

Section 210. Section 84-5606.13, R.C.M. 1947, is amended to read as follows:

**"84-5606.13. Use of tax meter machine authorized — insignia to be approved — marking of imported packages of cigarettes required — supervision of machines — charge — report.** The *department of revenue* may authorize any wholesaler or retailer of cigarettes licensed under this act to use a tax meter machine with which to imprint an insignia upon each package of cigarettes imported, sold or delivered in this state. The insignia shall be one approved by the *department*. Each package of cigarettes imported into this state, delivered or sold therein shall be marked with the proper insignia of such tax-stamping meter and thereafter any original package of cigarettes so marked may be lawfully possessed and sold within the state by any wholesaler or retailer licensed under this act. The *department* shall supervise and check the operation of such tax meter machines. The operator of such machine before using the same, shall take the meter thereof to the county treasurer, of the county in which the machine is operated, who is authorized to, and shall

set said meter for the number of packages specified and required by the operator. Prior to setting said meter the county treasurer shall charge said operator the amount of money proper for said setting, less the expense defrayment of eight per cent (8%) provided for in section 11 [84-5606.12]. The county treasurer shall collect this amount in advance unless the board has allowed the purchaser credit as provided in section 14 [84-5606.15]. The county treasurer shall report to the *department* on forms prescribed by it, the name of the licensed wholesaler or licensed retailer and the number of packages for which said meter was set and shall forward to the *department* any amounts collected from said licensee."

Section 211. Section 84-5606.14, R.C.M. 1947, is amended to read as follows:

"84-5606.14. **Resale of insignia prohibited — unused meter settings.** No wholesaler or retailer shall resell to any other wholesaler or retailer any insignia purchased by him from the *department*. Any wholesaler or retailer who has on hand any meter settings at the time of discontinuing his business of selling cigarettes, may apply to the *department* and be paid the face value of said meter settings less the amount of the expense defrayment allowed by section 11 [84-5606.12]."

Section 212. Section 84-5606.15, R.C.M. 1947, is amended to read as follows:

"84-5606.15. **Payment for insignia or affixation within thirty days — bond — new licensees to pay cash.** The *department* shall permit a licensed wholesaler or licensed retailer to pay for the insignia purchased, or affixation of insignia, within thirty (30) days after the date of purchase and shall require such licensee to file with the *department* a bond issued by a surety company approved by the state department of insurance as to solvency and responsibility and authority to transact business in the state, for such amount as the *department* may fix, but not in excess of an amount equal to the maximum insignia purchases incurred for any thirty (30) day period in the previous calendar year; provided, however, that any newly licensed wholesaler or licensed retailer shall pay on a cash basis for one (1) complete calendar year, after which the *department* may permit him thirty (30) days to pay for the purchase or affixation of insignia and shall require a bond as hereinabove provided."

Section 213. Section 84-5606.16, R.C.M. 1947, is amended to read as follows:

"84-5606.16. **Proceedings upon failure or refusal to pay tax — penalty.** If any person fails or refuses to pay the tax required by

this act when due, the *department* shall proceed to determine the tax due from such information as the *department* can obtain and shall assess the tax so determined against such person and notify him of the amount thereof. After such notice such tax shall become due and payable, together with a penalty of five per cent (5%) of such tax, or five dollars (\$5) per day for each day after the date of such notice, whichever is greater."

Section 214. Section 84-5606.17, R.C.M. 1947, is amended to read as follows:

"84-5606.17. **Tax meter users to keep certain records — examination of records.** All tax meter users shall keep for a period of one (1) year, all invoices of cigarettes purchased and imported by them, all receipts issued by them and insignia purchased, also, an accurate record of all sales of cigarettes by such tax meter users, showing the name and address of each purchaser, the date of sale, the quantity of each kind sold, the name of any carrier, the shipping point and destination. Such tax meter users shall permit the *department*, its assistants, authorized agents or representatives to examine all taxable items of cigarettes, invoices, receipts, books, paper, memoranda and records, as may be necessary to determine whether the tax meter machine has been used as required, or the insignia required by this act had been purchased and used, or to determine the amount of such tax as may be due or unpaid."

Section 215. Section 84-5606.20, R.C.M. 1947, is amended to read as follows:

"84-5606.20. **Shipments or deliveries into or out of state to be reported by carrier — form and contents of report.** Every common carrier hauling, transporting or shipping into or out of the state of Montana, from or to any other state, any cigarettes shall report in writing such shipments or deliveries to the *department*, on forms furnished by the *department*, giving the date, the person to whom the same was consigned and delivered and the quantity as shown by the bill of lading, and such other information as the *department* may require."

Section 216. Section 84-5606.21, R.C.M. 1947, is amended to read as follows:

"84-5606.21. **Transportation of cigarettes without insignia a misdemeanor unless in interstate commerce — vehicle, cigarettes and equipment subject to seizure and forfeiture.** It shall be unlawful for any person to transport into, receive, carry or move from place to place within this state, except in the course of interstate commerce, any cigarettes which do not bear the insignia required by this act. Any person violating the provisions of this section is guilty

of a misdemeanor and shall be punished as hereinafter provided, and any motor vehicle, airplane, conveyance, vehicle or other means of transportation, in which cigarettes are being unlawfully transported, together with the cigarettes and other equipment or personal property used in connection with such transportation, and found in such means of transportation, shall be subject to seizure by the *department*, its duly authorized agent, or any sheriff or deputy, or other peace officer, and shall be subject to forfeiture in the manner hereinafter provided."

Section 217. Section 84-5606.22, R.C.M. 1947, is amended to read as follows:

"84-5606.22. **Inventory of seized property — application for return of property.** Upon the seizure of any cigarettes, and within two (2) days thereafter, the person or officer making such seizure shall deliver an inventory of the property seized to the person from whom such seizure was made, if known, and file a copy thereof with the *department*. The person from whom the seizure was made, or any other person claiming an interest in the property seized, may apply for its return as provided in sections 95-713 through 95-716, R.C.M. 1947."

Section 218. Section 84-5606.25, R.C.M. 1947, is amended to read as follows:

"84-5606.25. **Appeal to district court — notice of appeal — perfecting appeal within thirty days — bond — hearing date.** Any person aggrieved by any action or decision of the *department*, made under the provisions of this act, may appeal therefrom to the district court of the county where appellant resides, which appeal shall be taken by notice of appeal in writing, setting forth the actions or decisions of the *department*, of which the appellant is aggrieved. Such appeal shall be perfected within (30) days after notice of any action or decision of the *department*, and shall be taken by serving a notice of appeal upon the *department* and filing the same with the clerk of said court, together with a good and sufficient bond to the state of Montana. The condition of such bond shall be to the effect that appellant agrees to prosecute said appeal diligently, and if the court shall finally decide that the state is entitled to judgment, that appellant will pay the amount thereof together with costs of such appeal. The bond shall be in the form required by law and in such an amount as the court may require. The notice of appeal shall be signed by the appellant or his attorney, and the matter appealed shall be heard upon ten (10) days' notice given by either party, unless a different time is specified by the court. Said district court may grant such relief as the law and the facts in the premises require."

Section 219. Section 84-5606.27, R.C.M. 1947, is amended to read as follows:

"84-5606.27. **Promulgation of rules and regulations.** The *department* shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this act, for the detailed and efficient administration thereof. All such rules, regulations and orders promulgated shall be published promptly and a copy distributed to each wholesale licensee; be published cumulative annually, and maintained in full as a public record."

Section 220. Section 84-5606.28, R.C.M. 1947, is amended to read as follows:

"84-5606.28. **County attorneys and peace officers to assist in enforcement of act — appointment of additional assistants and division authorized — presumption of violation.** In the enforcement of this act, the *department* may call to its assistance, and it shall be the duty of any county attorney, or any peace officer, in this state, to assist the *department* in the enforcement of this act; and the board is hereby authorized to appoint such additional assistants, and to establish an additional division of cigarette enforcement, as may be required to carry out the provisions of this act. Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer or other person, without the insignia affixed and canceled, or not marked as having been received by the unlicensed wholesaler, retailer or person within the preceding seventy-two (72) hours the presumption shall be that such cigarettes are kept therein in violation of the provisions of this chapter."

Section 221. Section 84-5606.29, R.C.M. 1947, is amended to read as follows:

"84-5606.29. **Department entitled to sue for unpaid tax and costs — treble damages.** In the case of any violation of this chapter, the *department* shall be entitled to sue, in the district where the *department* maintains its principal office for the amount of the unpaid tax and costs, including reasonable expense of the *department* in effecting collection of the unpaid tax. Where the court finds the failure to pay the tax has been willful, the court must, in addition, assess damages in treble the amount of the tax found to be due."

Section 222. Section 84-5606.30, R.C.M. 1947, is amended to read as follows:

"84-5606.30. **Employment of clerical and field assistants — disposition of taxes — war veterans' compensation fund abolished.** The *department* is hereby authorized to employ such clerical and field assistants as may be necessary to properly administer the provisions of this law. All moneys collected under the provisions of subdivision

(2) of section 84-5606, less the expense of collecting all the taxes levied, imposed and assessed by said section 84-5606, shall be paid to the state treasurer and deposited as follows: fifty per cent (50%) in the general fund, fifteen percent (15%) in the long-range building program account in the sinking fund, and thirty-five per cent (35%) in the long-range building program account in the bond proceeds and insurance clearance fund. All taxes levied, imposed and assessed under the provisions of subdivision (3) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund and shall, while any of the bonds hereafter issued and sold for the purpose of paying an honorarium, or adjusted compensation, to the residents of Montana who were in military service in the military forces of the United States in World War I or World War II, or any of the interest thereon, remain unpaid, be available for the payment thereof.

All taxes levied, imposed and assessed under the provisions of subdivision (4) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund, which shall, while any of the bonds hereafter issued and sold, in addition to the bonds authorized by said Initiative Measure No. 54, as originally enacted, or any of the interest upon such additional bonds, remain unpaid, be used only for the payment thereof, and of the expenses of administration of this act.

The War Veterans' Compensation Fund established by Initiative No. 54, as amended by chapter 44, Laws of 1957, is abolished and all moneys in the fund are transferred to a subfund in the bond proceeds and insurance clearance fund. When all veterans' honoraria authorized by law have been paid, such moneys shall be transferred to the two (2) accounts in the sinking fund established by this section.

After all of the outstanding War Veterans' Compensation Bonds and World War I Compensation Bonds have been paid or redeemed, or after the necessary funds have been set aside for their payment or redemption, the balance of the proceeds theretofore collected under the provisions of subdivisions (3) and (4) of said section 84-5606 shall be transferred to the sinking fund account provided for in section 79-2203, R.C.M. 1947."

Section 223. Section 84-5606.31, R.C.M. 1947, is amended to read as follows:

"84-5606.31. **Violation of act a misdemeanor unless otherwise provided — penalties.** Unless hereinbefore expressly otherwise provided, the violation of any provision of this act shall constitute a misdemeanor, and any person violating any such provision shall be punished by a fine of not less than one hundred dollars (\$100),

or more than five hundred dollars (\$500), or by imprisonment in the county jail for not less than thirty (30) days or more than six (6) months, or by both such fine and imprisonment; and if such person is the holder of a license issued under this act, such license shall be revoked by the *department* for a period of one (1) year."

Section 224. Section 84-5902, R.C.M. 1947, is amended to read as follows:

"84-5902. **Persons subject to tax.** Every person engaged in or carrying on the business of working or operating any mine or mining property in the state of Montana from which vermiculite, perlite, kerrite, maconite or any other micaceous minerals or hydrous silicates are mined, extracted or produced, must, for the year 1951 and each year thereafter, when engaged in or carrying on such business in this state, pay to the state *department of revenue*, for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business, in an amount equal to five (5) cents per ton of two thousand (2,000) pounds for each and every ton of concentrates mined, extracted or produced by such person during such year."

Section 225. Section 84-5903, R.C.M. 1947, is amended to read as follows:

"84-5903. **Quarterly payment.** Such annual license tax as imposed by section 84-5902 shall be paid in quarterly installments for the quarters ending, respectively, March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year, beginning with the quarter ending March 31, 1951, and the amount of such license tax due for each such quarter shall be paid to the state *department of revenue* within thirty (30) days after the end of each of such quarter."

Section 226. Section 84-5904, R.C.M. 1947, is amended to read as follows:

"84-5904. **Statement filed with state department of revenue.** Each and every person engaged in or carrying on the business specified in section 84-5902, must, at the date when this act becomes effective, but not later than thirty (30) days thereafter, and every person who shall, after the date this act becomes effective, engage in such business, must immediately upon engaging therein, file with the state *department of revenue* a certificate and statement on forms prescribed by the state *department of revenue*, which shall contain the name under which such person is engaging in and carrying on such business within this state, giving the name of the place or places of business or location of plants within this state; the name and address of the managing agent in this state if a corporation,

joint-stock company or association; or if a firm or copartnership, the names and addresses of the persons composing the same; if an association, joint-stock company or corporation, under the laws of what state organized, its principal officers; and such other information as the state *department of revenue* may deem necessary."

Section 227. Section 84-5905, R.C.M. 1947, is amended to read as follows:

"84-5905. **Records.** Every such person shall keep a record in such form as the state *department of revenue* may require of all such products mined or produced by him in this state. Such records shall at all times during the business hours of the day be subject to inspection by the state *department of revenue*, its agents or employees."

Section 228. Section 84-5906, R.C.M. 1947, is amended to read as follows:

"84-5906. **Quarterly statement — payment of tax.** Each and every person must, within thirty (30) days after the quarter ending March 31, 1951, and within thirty (30) days after the end of each following quarter, make out, on forms prescribed by the state *department of revenue*, and deliver to the state *department of revenue*, a statement showing the total number of tons of concentrates of vermiculite, perlite, kerrite, maconite or any other micaceous minerals or hydrous silicates mined or produced by such person, during each month of such quarter and during the whole quarter, and such other information as said board may require, together with the total amount due to the state as license taxes for such quarter; and must, within such thirty (30) days, and at the same time such statement is delivered to the state *department of revenue*, pay to the state *department of revenue* the amount of the license taxes shown by such statement to be due to the state of Montana for the quarter for which such statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer or managing agent in this state of the association, corporation or joint-stock company making the same. Any such person engaged in carrying on such business at more than one place or operating more than one mine in this state, may include all thereof in one statement."

Section 229. Section 84-5907, R.C.M. 1947, is amended to read as follows:

"84-5907. **Failure to file statement — determination of tax — collection.** If any person shall fail, neglect or refuse to file any statement required by section 84-5906 within the time required, or shall fail to pay the tax required by this act on or before the date such

payment is due, the state *department of revenue* shall, immediately after such time has expired, proceed to inform itself as best it may regarding the amount produced by such person within this state during such quarter, and during each month thereof, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter, and shall make out a statement, showing the same, and shall add to the amount of such license taxes, a penalty of twenty-five per cent (25%) thereof and deliver such statement to the attorney general, who shall proceed to collect the amount of the license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent (12%) per annum from the date of the making of such statement by the state *department of revenue* until paid. Upon request of the state *department of revenue*, it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to recover the same."

Section 230. Section 84-6203, R.C.M. 1947, is amended to read as follows:

"84-6203. **Net proceeds — how computed.** The state *department of revenue* shall calculate and compute from said returns the gross product yielded from such mine, and its gross value in dollars and cents for the year covered by the statement, and also shall calculate and compute the net proceeds in dollars and cents of said mine yielded to such person so engaged in mining, which said net proceeds shall be ascertained and determined by subtracting from the value in dollars and cents of the gross products thereof the following, to wit:

1. All royalty paid or apportioned in cash or in kind by the person so engaged in mining.
2. All moneys expended for necessary labor, machinery and supplies needed and used in the mining operations and developments.
3. All moneys expended for improvements, repairs and betterments necessary in and about the working of the mine.
4. All moneys expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

No moneys invested in the mines and improvements during any year, except the year for which such statement is made, shall be included in such expenditures, except as provided in section 84-6204; and such expenditures shall not include the salaries, or any portion

thereof, of any person or officer not actually engaged in the working of the mine or superintending the management thereof."

Section 231. Section 84-6204, R.C.M. 1947, is amended to read as follows:

**"84-6204. Deduction of drilling costs and capital expenditures.** The state *department of revenue* in computing the deductions allowable for cost of drilling wells completed during the period and for other capital expenditures shall allow ten per cent (10%) of such cost each year for a period of ten (10) years, provided, however, the operator or producer may elect to amortize the cost over a period of two (2) years if the well is less than three thousand (3,000) feet deep.

The *department* shall also compute and allow deductions for any capital expenditures made during the year 1953, where the same have not been previously allowed in computing such net proceeds under the laws of the state of Montana."

Section 232. Section 84-6205, R.C.M. 1947, is amended to read as follows:

**"84-6205. Assessment of royalties.** The amount of royalty received shall be considered net proceeds to the recipient and shall be assessed as follows: Upon receipt of the lists or schedules setting forth the names and addresses of any and all persons owning or claiming royalty, and the amount or amounts paid or yielded as royalty to such royalty owners or claimants during the year for which such return is made, the state *department of revenue* shall proceed to the assessment of all such royalties, and shall assess the same at the full cash value of the money or product yielded or accrued during such preceding calendar year, and the same shall be taxed as net proceeds of mines."

Section 233. Section 84-6206, R.C.M. 1947, is amended to read as follows:

**"84-6206. False or fraudulent reports — procedure in case of.** If any such report required by this act contains any willfully false or fraudulent statement as to the gross amount received by any person so engaged in mining as aforesaid, for any mine's product, then the said state *department of revenue* shall compute the gross value of such mine's product, and such gross value shall be based upon the market value at the point of production. Should there be no quotation covering any particular product, then the state *department of revenue* shall fix the value of such gross product in such manner as may seem to be equitable."

Section 234. Section 84-6207, R.C.M. 1947, is amended to read as follows:

**"84-6207. Transmission of net proceeds valuations to county assessor.** On or before the first day of July in each year the state *department of revenue* shall transmit to the county assessor of each county in which such mines are situated, the valuation of the net proceeds of such mines for the purpose of taxation, as the same have been determined and fixed by the state *department of revenue*, and the lists of royalties assessed under the provisions of section 84-6205. The county assessor shall enter the same upon an assessment roll called "Assessment Roll of Net Proceeds of Mines," the form of which shall be prescribed by the state *department of revenue* in conformity with the provisions of this act. The royalty assessments shall be entered by the county assessor under the name of the operator, and such assessments of royalty when entered shall have all the force and effect as if made in the names of the owners of such royalty individually as well as against the operator."

Section 235. Section 84-6208, R.C.M. 1947, is amended to read as follows:

**"84-6208. County assessors to compute taxes.** Immediately after the county board of *commissioners* has fixed tax levies on the second Monday in August, the county assessor shall compute the taxes on such net proceeds and royalty assessments, and shall deliver the book to the county treasurer on or before the fifteenth day of September. The county treasurer shall proceed to give full notice thereof to such operator and to collect the same in manner provided by law.

The operator or producer shall be liable for the payment of said taxes and same shall be payable by and shall be collected from such operators in the same manner and under the same penalties as provided for the collection of taxes upon net proceeds of mines; provided, however, that the operator may, at his option, withhold from the proceeds of royalty interest, either in kind or in money, an estimated amount of the tax to be paid by him upon such royalty or royalty interest, after such withholding any deviation between the estimated tax and the actual tax may be accounted for by adjusting subsequent withholdings from the proceeds of royalty interests."

Section 236. Section 84-6209, R.C.M. 1947, is amended to read as follows:

**"84-6209. Penalty for failure to make statement—estimate of net proceeds.** If any person shall refuse or neglect to make and deliver, under oath, to the state *department of revenue* any statement required by this act, or to comply with any requirements of this act, the state *department of revenue* must cause such refusal to be noted upon the assessment roll opposite the name of such per-

son, and must make an estimate of the cubic feet of natural gas, barrels of petroleum or other crude or mineral oil mined and treated or sold by such person, and upon such estimate shall fix and determine the value of the net proceeds of said mine as hereinbefore set forth. In making an estimate of the value of the net proceeds under this section, the state *department of revenue* shall have the power to subpoena and examine under oath, any person, members of a partnership or association, officers or agents of a corporation, and the employees of such person, partnership, association or corporation, and every person who refuses or neglects to appear and testify, when required so to do by the state *department of revenue* as herein provided, for each and every refusal shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment."

Section 237. Section 84-6211, R.C.M. 1947, is amended to read as follows:

"84-6211. **Statement required on dissolution of corporation during taxpaying year.** Every person who shall cease to do business in this state during any taxpaying year shall make all statements, reports and returns required by this act, and pay the tax due for such period as it transacted business, on or before the date of such cessation of business. The state *department of revenue* may grant a reasonable extension of time for filing a return upon good cause shown therefor."

Section 238. Section 84-6212, R.C.M. 1947, is amended to read as follows:

"84-6212. **Examination of records by department of revenue.** The state *department of revenue* shall have the right and power, at any time, to examine all books, records, papers and documents of such person pertaining to such business, in order to verify the statements made by such person, and if, from such examination, or from other information, said state *department of revenue* finds any statement, or any material part thereof, willfully false or fraudulent, said state *department of revenue* must assess in the same manner as provided for in section 84-6203."

Section 239. Section 84-6301, R.C.M. 1947, is amended to read as follows:

"84-6301. **Gallonage tax on gasoline in fuel tanks in excess of twenty gallons purchased outside state and used in state — exception—arrangement to buy equal amount of gas in state — monthly report.** Every importer who brings in to this state in

the fuel tanks of any motor vehicle more than twenty (20) gallons of gasoline, purchased outside the state and used to operate the vehicle upon the public highways and streets of the state, shall pay the state gallonage tax on all such gasoline in excess of twenty (20) gallons unless, under an arrangement approved by the state *department of revenue*, he shall purchase within the state gasoline equal to such excess. Within thirty (30) days after the close of each month, he shall file with the state *department of revenue* a report, on such forms and under such rules and regulations as the state *department of revenue* may prescribe, of all such gasoline imported by him so used within this state, and shall at the same time pay to the state *department of revenue* the amount of tax due for such month."

Section 240. Section 84-6306, R.C.M. 1947, is amended to read as follows:

"84-6306. **Penalty for failure, neglect, or refusal to make statement or pay tax—notification—additional penalty for failure to comply after notification.** If any importer fails, neglects, or refuses to make any statement required for any month, or to pay the license tax due for any month, within the time prescribed for the filing of such statement or the payment of such tax, there shall automatically accrue a penalty equal to one-tenth of one cent (.1¢) on each gallon of gasoline purchased during that month, the amount of such penalty shall in no case be less than five dollars (\$5.00), or, if no purchases were made, a penalty of five dollars (\$5.00), such penalty to be paid or collected in the manner hereinafter provided.

The state *department of revenue* shall notify any importer that fails, neglects or refuses to make any statement required for any month within the time prescribed for the filing of such statement or the payment of such tax, of such failure and if the required statement is not filed or payment of tax is not made within ten (10) days from the date of such notification, there shall automatically accrue a penalty equal to one cent (1¢) on each gallon of gasoline purchased during that month, the amount of which penalty shall in no case be less than twenty-five dollars (\$25.00), or, if no purchases were made, a penalty of twenty-five dollars (\$25.00), such penalty to be paid or collected in the manner hereinafter provided."

Section 241. Section 84-6307, R.C.M. 1947, is amended to read as follows:

"84-6307. **Failure or refusal to make and file return or false return — department of revenue to prepare statement.** If any importer fails or refuses to make and file a return at the time prescribed in this act, or make, willfully or otherwise, an erroneous,



false, or fraudulent statement, the state *department of revenue*, or its duly appointed agent, shall make the statement from its or his own knowledge and from such information as it or he can obtain through testimony or otherwise. Any statement so made shall be prima facie good and sufficient for all legal purposes. As a further means of making the statement, the state *department of revenue* or its duly appointed agent, shall have the power to examine the books, records and papers of such importer, to ascertain the amount of tax due under the provisions of this act. From the statement so made, the state *department of revenue* shall determine the amount of tax due, if any, and shall add the penalty provided herein for failure to pay the tax or to file the return within the time prescribed for the payment of such tax or the filing of such return, and shall notify the importer, of the amount of tax and penalty assessed together with a demand for immediate payment of the tax and penalty. If such tax and penalty is not paid within thirty (30) days, the treasurer of the state of Montana shall proceed to collect such tax and penalty in the manner prescribed in section 84-1807."

Section 242. Section 84-6402, R.C.M. 1947, is amended to read as follows:

"84-6402. **Assessment of flight property.** The flight property of all scheduled airline companies operating in Montana under a certificate of convenience and necessity issued by the United States civil aeronautics board shall be assessed annually by the state *department of revenue*."

Section 243. Section 84-6403, R.C.M. 1947, is amended to read as follows:

"84-6403. **Report by airline company.** Every airline company engaged in air commerce in this state shall annually, on or before the first day of May, file with the *department of revenue* in such form as the *department* may require, a report under oath, showing the following:

- (1) The name of the person or persons, association, joint-stock company or corporation;
- (2) Under the laws of what state organized or existing;
- (3) The location of its principal office;
- (4) The location of its principal office in this state, if any;
- (5) The number of aircraft of each type or kind, the total original cost, the average cost per plane, the total depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;

(6) The number of shares of capital stock authorized, number of shares outstanding, the total par value and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and long term debt, and the market value at the end of the preceding calendar year;

(7) Income account showing operating revenues and expenses of the entire system and net operating income during the preceding calendar year;

(8) The total tonnage of passengers, express and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express and freight finally discharged by it within this state during the preceding calendar year, and the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year;

(9) The total time in equated plane hours, of all aircraft of the scheduled airline company in flight in this state during the preceding calendar year, plus the total time of such aircraft on the ground in this state during the preceding calendar year and the total of such time in flight or on the ground within and without this state during the preceding calendar year;

(10) The number of revenue ton miles of passengers, mail, express and freight flown by the scheduled airline company within this state during the preceding calendar year and the total number of such miles flown by it within and without this state during the preceding calendar year;

(11) The number of arrivals and departures of all aircraft of the scheduled airline company in this state during the preceding calendar year and the total number of such arrivals and departures within and without this state during the preceding calendar year;

(12) Such other information as the *department of revenue* may require."

Section 244. Section 84-6404, R.C.M. 1947, is amended to read as follows:

"84-6404. **Determination of value.** The *department of revenue* shall determine the full and true valuation of all flight property of all airlines operating in this state or used by every scheduled airline company in air commerce. This valuation may be ascertained by:

- (1) Determining the full and true valuation of all flight property, owned and operated by every scheduled airline company, as an integrated operation; and,



(2) Allocating to the state of Montana, from this total valuation, a valuation which represents this state's proper share of the valuation of the flight property, through the application of ratios, which are indicated in section 84-6403, subsections (8), (9), (10) and (11), against the total valuation.

(3) *After making such assessment, the department shall give written notice thereof to the person or persons to whom the assessment is made.*"

Section 245. Section 84-6405, R.C.M. 1947, is amended to read as follows:

"84-6405. **Hearing before the state tax appeal board.** After such assessment is made the state tax appeal board shall give at least ten (10) days' written notice thereof to the person or persons to whom the assessment is made, together with time and place of hearing thereon, at which time and place such person or persons, or any taxpayer may appear before the board in person, or otherwise, to show cause why such assessment should be either lowered or raised."

Section 246. Section 84-6406, R.C.M. 1947, is amended to read as follows:

"84-6406. **Procedure on failure to file statement.** If any airline company shall refuse or neglect to make the statement required by this act to the department of revenue, or shall refuse or neglect to permit an inspection and examination of its property, its records, books, accounts, or other papers when requested by the department or shall refuse or neglect to appear before the department when required so to do, the department shall assess the property of such airline company according to its best judgment on available information, and may add to the assessment a penalty not exceeding ten per cent (10%) of the assessment, and such airline company shall be estopped to question or impeach the action or determination of the board thereon."

Section 247. Section 84-6407, R.C.M. 1947, is amended to read as follows:

"84-6407. **Transmission of statement of amount apportioned to counties.** On or before the second Monday in July, the department shall apportion such assessment to the counties in or through which the airline operates. The county assessor must enter the amount of the assessment apportioned to the county in the column of the assessment roll or book which shows the total value of all property for taxation in the county. The assessment shall be assigned to class 7 having a taxable value of forty per cent (40%) of assessed value."

Section 248. Section 84-6408, R.C.M. 1947, is amended to read as follows:

"84-6408. **Record of assessment and apportionment of properties.** The state department of revenue must keep a record of all such assessments and apportionments."

Section 249. Section 84-6410, R.C.M. 1947, is amended to read as follows:

"84-6410. **Extension of time for making report.** The department of revenue for good cause may extend for not to exceed thirty (30) days the time for making a report as required under section 84-6403."

Section 250. Section 84-6606, R.C.M. 1947, is amended to read as follows:

"84-6606. **Verified declaration of destination on out-of-state mobile homes—delivery and affixing to vehicle—obtaining tax receipt—exemptions.** (1) whoever brings a mobile home into the state of Montana shall immediately upon arrival in the state execute a written declaration verified under oath stating the destination of the mobile home and such other information as the state department of revenue shall require and shall deliver the original of the declaration to whoever is on duty at the nearest port of entry station, state vehicle weight station or such other places and persons as the state department of revenue may prescribe. He shall also immediately upon arrival in the state of Montana affix a copy of the declaration to the mobile home at a conspicuous place.

(2) Whoever moves a mobile home from a point within the state of Montana to another point within or without the state of Montana shall first:

(a) Execute the declaration provided for in subsection (1) of this section, deliver the original of it to the treasurer of the county in which the move originates or to such other person as the state department of revenue shall prescribe and affix a copy of it to the mobile home to be moved at a conspicuous place;

(b) Obtain from the county treasurer of the county in which the move originates a receipt showing payment in full of property taxes due with respect to that mobile home to the date it is moved.

(3) The provisions of subsection (2) (b) of this section shall not apply whenever a person moves a mobile home:

(a) From a point without to a point within the state of Montana.

(b) Between places of business of dealers within or without the state of Montana.

(c) From the place of business of a dealer to a point within or without the state of Montana."

Section 251. Section 84-6607, R.C.M. 1947, is amended to read as follows:

"84-6607. **State department of revenue to make regulations.** The state *department of revenue* may make reasonable rules and regulations necessary for or as an aid to effectuation of the purposes of this act."

Section 252. Section 84-6801, R.C.M. 1947, is amended to read as follows:

"84-6801. **Definitions.** As used in this act, the following definitions shall apply unless the context otherwise requires:

(1) The word "*department*" shall mean the state *department of revenue* of the state of Montana.

(2) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association, however formed.

(3) The word "cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(4) The words "sale" or "sell" shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever of tobacco products, other than cigarettes.

(5) The word "wholesaler" shall mean any person who purchases tobacco products, other than cigarettes, directly from the manufacturer, or who purchases tobacco products, other than cigarettes, from any other person who purchases from the manufacturer, and who acquires such products for the purpose of bona fide sales to retail dealers, or who services retail outlets by the maintenance of an established place of business for the purchase of tobacco products, other than cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of tobacco products. The word "retailer" shall mean any person other than a wholesaler who is engaged in the business of selling tobacco products to the ultimate consumer.

(6) The words "wholesale price" shall mean the established

price for which a manufacturer sells a tobacco product, other than cigarettes, to a wholesaler or unclassified acquirer before any discount or other reduction."

Section 253. Section 84-6806, R.C.M. 1947, is amended to read as follows:

"84-6806. **Wholesaler to retain five per cent defrayment — refunds.** The taxes specified in this act that are paid by the wholesaler, shall be paid to the *department* in full less a five per cent (5%) defrayment for his collection and administrative expense and shall be deposited by the *department* in the long-range building sinking fund number 338766. Refunds of the tax paid shall be made as provided in section 84-726, R.C.M. 1947, in cases where the tobacco products purchased become unsalable."

Section 254. Section 84-6807, R.C.M. 1947, is amended to read as follows:

"84-6807. **Rule-making power.** The *department* is authorized to adopt rules for the effective collection and refund of the tax imposed by this act."

Section 255. Section 84-6902, R.C.M. 1947, is amended to read as follows:

"84-6902. **Short title—administration of act.** This act shall be known as and may be cited as the "Corporation Income Tax" and it shall be administered by the state *department of revenue*."

Section 256. Section 84-6907, R.C.M. 1947, is amended to read as follows:

"84-6907. **Employment of personnel—rules and regulations.** The state *department of revenue* may employ personnel and adopt rules, regulations and forms as the *department* finds necessary to place this act in operation and to carry out its provisions."

Approved: April 4, 1973.